

The Commonwealth of Massachusetts

ANNUAL REPORT

OF THE

COMMISSIONERS ON UNIFORM  
STATE LAWS

FOR THE

YEAR ENDING NOVEMBER 30, 1920



BOSTON

WRIGHT & POTTER PRINTING CO., STATE PRINTERS  
32 DERNE STREET

PUBLICATION OF THIS DOCUMENT  
APPROVED BY THE  
SUPERVISOR OF ADMINISTRATION.

# The Commonwealth of Massachusetts

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## TWELFTH ANNUAL REPORT

OF THE

## COMMISSIONERS ON UNIFORM STATE LAWS.

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*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts.*

The Commissioners on Uniform State Laws, appointed under the provisions of chapter 122 of the General Acts of 1919, submit this their twelfth annual report.

The Board during the past year has consisted of Hollis R. Bailey, chairman, Samuel Williston and Joseph F. O'Connell.

The duties of the commission are stated in the above-mentioned act, as follows: —

SECTION 2. It shall be the duty of the commission to examine subjects upon which uniformity of legislation in various states and territories of the United States is desirable, but which are outside of the jurisdiction of the congress of the United States; to confer upon these matters with the commissioners appointed by other states and territories for the same purpose; to consider and draft uniform laws to be submitted for approval and adoption by the several states; and generally to devise and recommend such other or further course of action as may tend to accomplish the purposes of this act.

The duties of the commissioners are twofold: first, to confer with commissioners appointed by other States and assist in drafting uniform laws on subjects upon which uniformity of legislation is desirable; and, second, to submit to the Legislature for enactment the laws which have been

drafted and approved by the commissioners of all the States acting together as the National Conference of Commissioners on Uniform State Laws.

#### THE IMPORTANCE OF THE WORK.

The importance of the work intrusted to your commissioners has long been recognized. The first commissioners in Massachusetts were appointed in 1891 under the provisions of St. 1891, c. 405, and since that year there has been an unbroken succession of commissioners all working without compensation and devoting much time and thought to the performance of their duties. The Legislature has recognized the value of the work done by furnishing upwards of \$10,000 for the expenses of the commissioners and by the adoption and enactment of nine of the uniform laws recommended to it.

#### DOINGS OF THE CONFERENCE IN 1919-20.

The conference held its annual meeting in St. Louis in August, 1920. The consideration of the following acts was completed, and they were approved and recommended for adoption by the several States: Uniform occupational diseases act, uniform foreign depositions act and uniform proof of statutes act.

The uniform conditional sales act was perfected by a slight amendment, especially needed to meet conditions arising in conditional sales of agricultural implements by manufacturers to their selling agents.

The question has been asked, is a State which sends its commissioners to attend the national conference under a moral obligation to give careful attention to the uniform laws framed and recommended by the conference? Our answer is that each State does assume such a moral obligation. The States have virtually agreed to work together in this matter of uniformity of legislation. Those States which fail to recognize this obligation and fail to adopt the laws recommended are not doing their full duty in the matter. Uniformity cannot be attained unless the States work together. The Governor of Massachusetts and the Legislature

of Massachusetts, we think, should appreciate the situation, and should understand that the eyes of all the other States are upon Massachusetts, keeping watch to see whether she is doing her part.

We are led to say this because the Legislature of Massachusetts since 1913 has failed to adopt any of the uniform laws submitted to it for enactment, notwithstanding the fact that the laws submitted have been enacted in many of the leading States.

#### LEGISLATION RECOMMENDED.

Your Board this year presents three uniform acts for adoption: —

##### *The Uniform Partnership Act.*

This act was approved by the conference in 1914. It has been enacted in nine States and in the territory of Alaska. It codifies the law of partnership, and provides clearly as to the title to partnership real estate and its devolution upon the death of a partner.

##### *The Conditional Sales Act.*

This act was approved by the conference in 1918. It has been enacted in New Jersey, and embodies the law which is in force in a large number of States.

##### *The Fraudulent Conveyances Act.*

This act was approved by the conference in 1918. It has been enacted in Tennessee, and is based upon the law as it already exists in many of the States. Its enactment in Massachusetts will clarify the law, and will remove uncertainties which now exist as to important points.

#### APPROPRIATION.

The expenses of the Board consist very largely of the expenses incurred for travel of the commissioners in attending the annual meeting of the conference. If the meeting of the conference is held in the far West, the expenses are very

large. If the meeting is held in the middle West, the expenses are large. If the meeting is held in Boston, the expenses are very small.

The Board asks for an appropriation for the coming year of \$755, \$100 of which will be paid to the conference as provided in the statute of 1919, above cited.

#### EXPENDITURES OF THE BOARD.

Amount of appropriation, . . . . .	\$600 00
Feb. 5, Wright & Potter, printing annual report, etc., . . . . .	\$34 59
Contribution towards expenses of national conference, . . . . .	100 00
Hollis R. Bailey, traveling and other expenses, . . . . .	206 04
Samuel Williston, traveling and other expenses, . . . . .	194 19
	————— \$534 82

HOLLIS R. BAILEY.  
 SAMUEL WILLISTON.  
 JOSEPH F. O'CONNELL.







The Commonwealth of Massachusetts

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ANNUAL REPORT

OF THE

COMMISSIONERS ON UNIFORM  
STATE LAWS

FOR THE

YEAR ENDING NOVEMBER 30, 1921



BOSTON

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32 DERNE STREET

PUBLICATION OF THIS DOCUMENT  
APPROVED BY THE  
SUPERVISOR OF ADMINISTRATION.

# The Commonwealth of Massachusetts

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## THIRTEENTH ANNUAL REPORT

OF THE

## COMMISSIONERS ON UNIFORM STATE LAWS.

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*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts.*

The Commissioners on Uniform State Laws, appointed under the provisions of chapter 122 of the General Acts of 1919, submit this their thirteenth annual report.

It is now thirty years since the first board of Commissioners was appointed to promote uniformity of legislation in the several States of the United States. The commissioners during the entire period have attended faithfully to their duties, and Massachusetts, as represented by them in the annual conferences of commissioners from all the States, has taken a prominent, not to say leading, part in all branches of work undertaken. The Legislature, on the whole, has recognized the value of the work done, and has availed itself of the same by enacting nine out of twenty uniform laws drafted and recommended for adoption.

The total cost to the Commonwealth of the work done has amounted to about \$30,000.

The Legislature has never questioned the importance of uniformity of legislation, and the Board has been continued by eight different acts of the Legislature.

The commissioners feel that it is their duty, year by year, to recommend the enactment of such of the uniform laws as they deem most important and most suitable for conditions in Massachusetts. The Legislature, as they view the matter,

should have the opportunity each year to take such action as it deems suitable in the matter of promoting uniformity of legislation by the enactment of uniform laws.

#### LEGISLATION RECOMMENDED.

The Commissioners on Uniform State Laws this year recommend the adoption of four uniform laws, viz.:—

##### *The Uniform Partnership Act.*

This act was approved by the conference in 1914. It has been enacted in nine or more States and in the territory of Alaska. It is highly approved by those who have had occasion to consider it with greatest care.

##### *The Uniform Limited Partnership Act.*

This act was approved by the conference in 1916. It is intended as a supplement to the uniform partnership act. Its provisions are both practical and useful, and when enacted they will be much appreciated by all persons who desire to obtain capital with which to do business jointly.

##### *The Uniform Fraudulent Conveyances Act.*

This act was approved by the conference in 1918. It has been enacted in several States. It is based upon the law as it already exists in many of the States. If enacted in Massachusetts, it will remove troublesome uncertainties which now exist.

##### *The Uniform Conditional Sales Act.*

This act was approved by the conference in 1918. It has been enacted in several States, and embodies the law which is in force in a large number of States.

#### DOINGS OF THE CONFERENCE IN 1920-21.

The conference held its annual meeting in Cincinnati, Ohio, in August, 1921. The president, the Hon. Henry Stockbridge of Maryland, delivered his annual address containing his recommendations as to matters requiring the attention of the conference.

The report of the committee as to compacts between States, prepared by its chairman, Dean John H. Wigmore, received attention.

The uniform corporation act was again considered, and the same is true of the uniform declaratory judgments act. No new acts of importance were recommended for adoption. Judge Stockbridge was re-elected president, Prof. Eugene A. Gilmore as secretary, and William O. Hart, Esq., as treasurer.

All acts heretofore recommended by the conference have received the approval of the American Bar Association.

#### EXPENDITURES.

Amount of appropriation. . . . .	\$750 00
Paid Wright & Potter, printing annual report . . . .	15 67
Paid contribution towards expenses of national conference .	100 00
Paid Samuel Williston, traveling and other expenses . .	230 02
Paid Joseph F. O'Connell, traveling and other expenses .	67 39
Paid Hollis R. Bailey, printing and other expenses . .	5 36
	<hr/>
	\$418 44

HOLLIS R. BAILEY,  
SAMUEL WILLISTON,  
JOSEPH F. O'CONNELL,  
*Commissioners.*









The Commonwealth of Massachusetts

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ANNUAL REPORT

OF THE

COMMISSIONERS ON UNIFORM  
STATE LAWS

FOR THE

YEAR ENDING NOVEMBER 30, 1922



BOSTON

WRIGHT & POTTER PRINTING CO., STATE PRINTERS  
32 DERNE STREET

PUBLICATION OF THIS DOCUMENT  
APPROVED BY THE  
COMMISSION ON ADMINISTRATION AND FINANCE.

# The Commonwealth of Massachusetts

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## FOURTEENTH ANNUAL REPORT

OF THE

## COMMISSIONERS ON UNIFORM STATE LAWS.

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*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts.*

The Commissioners on Uniform State Laws, appointed under the provisions of chapter 122 of the General Acts of 1919, submit this their fourteenth annual report.

When Commissioners on Uniform State Laws were originally appointed in 1891 by Act of 1891, chapter 405, the Legislature deemed it wise to appoint them for a period of only five years, the work undertaken being new and to some extent experimental. It soon became evident that the work was useful and important, and the Board has been continued without any break by successive acts of the Legislature passed every five years. While each act provided for annual reports, the first report was not submitted until 1908. Since 1908, when the present chairman became a member of the Board, reports have been filed each year. They have contained information of considerable value and have all been printed as public documents.

The commissioners a year ago recommended the adoption of four uniform laws, viz., the uniform partnership act, the uniform limited partnership act, the uniform fraudulent conveyances act, and the uniform conditional sales act. The first named was enacted by the Legislature and will take effect Jan. 1, 1923.

It is an important piece of legislation, and while much of the act is a codification of existing law, there are several important changes effected by the act, notably, the pro-

vision that partnership real estate on a dissolution shall be treated as personal property and shall be handled by surviving partners and not by the heirs of a deceased partner.

Furthermore, the entire law of general partnership is stated in a clear and systematic manner so that it can readily be found and understood by students, professors, lawyers and judges as well as by business men who are doing business as partners or with partnerships.

The National Conference of Commissioners on Uniform State Laws held its thirty-second meeting at San Francisco, Cal., in August, 1922, the sessions commencing on August 2 and continuing until August 8. The retiring president, the Hon. Henry Stockbridge of Baltimore, Md., delivered his annual address.

Two of the commissioners from Massachusetts, viz., Prof. Samuel Williston and Joseph F. O'Connell, Esq., of Boston, were in attendance. The following uniform laws were considered: —

Uniform Incorporation Act.

Uniform Declaratory Judgments Act.

Uniform Act on the Status and Protection of Illegitimate Children.

Uniform Mortgage Act.

Uniform Aviation Act.

Uniform Fiduciaries Act.

Uniform Arbitration Act.

Uniform Act on Joint Paternal Guardianship.

Uniform Act for securing Compulsory Attendance of Non-resident Witnesses in Civil and Criminal Cases.

Uniform Act for the Extradition of Persons charged with Crime.

Final drafts of the uniform fiduciaries act, uniform illegitimacy act, uniform declaratory judgments act, and uniform law for aeronautics were approved by the conference and recommended to the State Legislatures for adoption.

The conference also approved amendments to sections 32 and 38 of the uniform sales act and sections 20, 40 and 47 of the warehouse receipts act in order to harmonize the uniform bills of lading act and uniform warehouse receipts act, and also to correct what was believed to be an unfortunate provision in the warehouse receipts act with respect to the

liability of warehousemen for receipts issued wrongfully by an agent.

Massachusetts was recognized as follows: Notice was taken that the uniform partnership act had been adopted by Massachusetts.

Hollis R. Bailey, chairman of the Massachusetts Board, was continued as a member of the committee on scope and program; Prof. Samuel Williston was continued as a member of the committee on uniform commercial acts; and Joseph F. O'Connell, Esq., was appointed chairman of the committee on uniform arbitration act.

The following statement of the origin and scope of the National Conference of Commissioners on Uniform State Laws was submitted by the secretary: —

The National Conference of Commissioners on Uniform State Laws is composed of commissioners from each of the States, the District of Columbia, Alaska, Hawaii, Porto Rico and the Philippine Islands. In thirty-three of these jurisdictions the commissioners are appointed by the chief executive, acting under express legislative authority. There are usually three representatives from each jurisdiction. The term of appointment varies, but three years is the usual period. The commissioners are chosen from the legal profession, being lawyers and judges of standing and experience, and teachers of law in some of the leading law schools. They serve without compensation, and in most instances pay their own expenses. They are united in a permanent organization, under a constitution and by-laws, and annually elect a president, a vice-president, a secretary and a treasurer. The commissioners meet in annual conference at the same place as the American Bar Association, usually for four or five days immediately preceding the meeting of that association. The funds necessary for carrying on the work of the conference are derived from contributions from some of the States and from appropriations made by the American Bar Association. The record of the activities of the conference, the reports of its committees, and its approved acts are printed in the annual proceedings. The approved acts, sometimes with annotations, are also printed in separate pamphlet form.

The origin of the conference is, briefly, this: In 1889 the American Bar Association appointed a special committee on uniform State laws. In 1890 the Legislature of the State of New York adopted an act authorizing the appointment of "commissioners for the promotion of uniformity of legislation in the United States," whose duty it was to examine certain subjects of national importance that seem to conflict among the laws of the several Commonwealths, to ascertain the best means to effect an assimilation and uniformity in the laws of the States,

and especially whether it would be advisable for the State of New York to invite the other States of the Union to send representatives to a convention to draft uniform laws to be submitted for the approval and adoption of the several States. In the same year a special committee of the American Bar Association, after reciting the action of New York, reported a resolution that the association recommend the passage by each State, and by Congress for the District of Columbia and the territories, of a law providing for the appointment of commissioners to confer with commissioners from other States on the subject of uniformity in legislation on certain subjects. As a result of the action of New York of the recommendation of the American Bar Association, and of the efforts of various interested persons, the first conference of commissioners was held in August, 1892, at Saratoga, N. Y., for three days immediately preceding the annual meeting of the American Bar Association. Since that time, thirty conferences have been held. While in the first conference but nine States were represented, since 1912 all states, territories, the District of Columbia, Porto Rico and the Philippine Islands have been officially represented.

The object of the conference, as stated in its constitution, is "to promote uniformity in State laws on all subjects where uniformity is deemed desirable and practicable." The conference works through standing and special committees. In recent years all proposals of subjects for legislation are referred to a standing committee on scope and program. After due investigation and sometimes a hearing of parties interested, this committee reports whether the subject is one upon which it is desirable and feasible to draft a uniform law. If the conference decides to take up the subject, it refers the same to a special committee, with instructions to report a draft of an act. With respect to some of the more important acts, it has been customary to employ an expert draftsman. Tentative drafts of acts are submitted from year to year and are discussed section by section. Each uniform act is thus the result of one or more tentative drafts subjected to the criticism, correction and emendation of the commissioners, who represent the experience and judgment of a select body of lawyers chosen from every part of the United States. When finally approved by the conference, the uniform acts are recommended for general adoption throughout the jurisdiction of the United States, and are submitted to the American Bar Association for its approval.

The conference has drafted and approved thirty-eight acts. It has also approved seven acts drafted by other organizations. Some of its own acts have been by conference action declared obsolete and superseded, leaving at present a total of thirty acts being recommended for adoption. A complete list of all acts drafted and approved, of acts drafted by other bodies and approved by the conference, of obsolete and superseded acts, and the extent to which the acts have been adopted in the various jurisdictions, is shown in appropriate tables on pages 708, 709 and 714.



The list of present and past officers, the present personnel of the conference, and the standing and special committees are set forth on pages 695 and 700.

As an aid in promoting uniformity of judicial interpretation of the various acts, the conference has fortunately secured, through the efforts and able editorship of Commissioner Charles Thaddeus Terry of New York, chairman of the committee on uniformity of judicial decisions, the publication in a single volume, by Baker, Voohis & Co. of New York City, of the uniform acts with full annotations. The report of the committee on uniformity of judicial decisions to the 1922 conference brings the annotations down to March 1, 1922.

### LEGISLATION RECOMMENDED.

The Commissioners on Uniform State Laws this year recommend the adoption of four uniform laws, viz.:—

#### 1. *The Uniform Limited Partnership Act.*

This act was approved by the conference in 1916. It is intended as a supplement to the uniform general partnership act. It does away with some of the hardships, not to say injustice, resulting from the present limited partnership statutory provisions. If enacted, it will greatly assist persons who desire to obtain capital with which to do business as general partners.

#### 2. *The Uniform Fraudulent Conveyances Act.*

This act has already been enacted in several States. To some extent it is supplementary to the uniform partnership act adopted last year. If enacted in Massachusetts, it will remove troublesome uncertainties which now exist.

#### 3. *The Uniform Fiduciaries Act.*

This act was approved by the conference in August, 1922. It is intended to remove some of the dangers which now exist when business is transacted with trustees, especially by banks and trust companies. The rights of beneficiaries are not overlooked and are reasonably safeguarded.

4. *The Uniform Declaratory Judgments Act.*

This act also was approved by the conference in August, 1922, after three years' consideration. It is based upon legislation which has been tried and found useful in other jurisdictions. It will enable parties to have their rights determined at an early stage of a controversy before large, unnecessary damage and expense have been incurred. We believe it will prove to be a very useful piece of legislation.

FINANCIAL STATEMENT.

Original appropriation . . . . .	\$650 00
Additional appropriation . . . . .	225 00
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	\$875 00
 Paid Wright & Potter, for printing annual report . . . . .	 \$15 53
Paid contribution towards expenses of national conference . . . . .	100 00
Paid Samuel Williston, traveling and other expenses . . . . .	385 41
Paid Joseph F. O'Connell, traveling and other expenses . . . . .	371 59
	<hr/>
	\$872 53

HOLLIS R. BAILEY,  
 SAMUEL WILLISTON,  
 JOSEPH F. O'CONNELL,  
*Commissioners.*



The Commonwealth of Massachusetts

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ANNUAL REPORT

OF THE

COMMISSIONERS ON UNIFORM  
STATE LAWS

FOR THE

YEAR ENDING NOVEMBER 30, 1923

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AMHERST, MASS



# The Commonwealth of Massachusetts

## FIFTEENTH ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORM STATE LAWS

*To His Excellency the Governor, and the Honorable Council of the Commonwealth of Massachusetts:—*

The Commissioners on Uniform State Laws, appointed under the provisions of Chapter 122 of the General Acts of 1919, submit this their fifteenth annual report.

The Commissioners a year ago recommended the adoption of four of the uniform laws. One of these, viz., the Uniform Limited Partnership Act, was enacted and will take effect January 1, 1924. This law will do away with some of the hardships which exist under the present law. As the law has been for a good many years, a man who intended to be a special and not a general partner nevertheless became liable as a general partner for all the debts of the firm, if he failed to publish notice and file a certificate as required by the statute, General Laws, c. 109. Under the new law the penalty will be much less severe.

### ANNUAL MEETING OF CONFERENCE.

The annual meeting of the National Conference of Commissioners on Uniform State Laws was held this year in Minneapolis, Minnesota, August 22 to August 27, 1923.

The Hon. Nathan William MacChesney of Chicago, President of the Conference, was re-elected as President and Joseph F. O'Connell, Esq. of this Board was elected Vice-President.

Mr. O'Connell continues as chairman of committee on a Uniform Arbitration Act. Hollis R. Bailey of this Board was added to the committee on a Uniform Mortgage Act and Prof. Samuel Williston of this Board was continued as a member of the committee on Commercial Law.

The time of the Conference was largely devoted to the consideration of a Uniform Mortgage Law and a Uniform Arbitration Act. No additional laws were recommended for adoption by the States.

Some of the States have already adopted as many as seventeen of the Uniform Laws. Massachusetts, so far, has adopted only fourteen.

Insofar forth as Massachusetts fails to adopt the uniform laws which are recommended, to that extent it loses the benefit of the work done by this Board and by similar Boards created in all the States.

### STATE RIGHTS.

The doctrine of State Rights is probably as important now as it ever was and perhaps is more important. The adoption of Uniform State Laws is one of the important methods of preserving State Rights. The failure of the Southern States to adopt the Uniform Child Labor Law led the National Child Labor Association to resort to the Federal Government to secure a Federal child labor law. Congress has twice enacted a federal child labor law and the United States Supreme Court has declared each of these laws unconstitutional. An effort will probably be made to amend the United States Constitution and take away from the States the power they now have to legislate as to child labor, and give this power to the Federal Government. The National Conference of Commissioners on Uniform State Laws is really working all the time to maintain the doctrine of State Rights. Its work, however, will not be accomplished unless the States co-operate by adopting the uniform laws which are recommended by the Conference.

## LEGISLATION RECOMMENDED.

The Commissioners on Uniform State Laws this year recommend the adoption of two uniform laws, viz.:—

1. *The Uniform Fraudulent Conveyances Act.*

This act has already been adopted in eleven States. To some extent it is supplementary to the uniform partnership act adopted two years ago. If enacted in Massachusetts it will remove troublesome uncertainties which now exist.

2. *The Uniform Conditional Sales Act.*

This act was approved by the Conference in 1918. It has been enacted in eight states and embodies the law which is in force in a large number of States.

## FINANCIAL STATEMENT.

Amount of Appropriation . . . . .	\$750 00
Amount of Additional Appropriation . . . . .	75 00
	<hr/>
	\$825 00
Paid Samuel Williston, traveling and other expenses . . . . .	\$184 82
Paid Joseph F. O'Connell, traveling and other expenses . . . . .	334 49
Paid Hollis R. Bailey, traveling and other expenses . . . . .	186 52
Paid contribution towards expenses of National Conference . . . . .	100 00
	<hr/>
	\$805 83
Unexpended balance . . . . .	19 17
	<hr/>
	\$825 00

HOLLIS R. BAILEY,  
SAMUEL WILLISTON,  
JOSEPH F. O'CONNELL,  
*Commissioners.*



# The Commonwealth of Massachusetts

## ANNUAL REPORT

OF THE

## COMMISSIONERS ON UNIFORM STATE LAWS

FOR THE

Year ending November 30, 1924



Publication of this Document  
Approved by the  
Commission on Administration and Finance

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# The Commonwealth of Massachusetts

## SIXTEENTH ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORM STATE LAWS.

*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:—*

The Commissioners on Uniform State Laws were constituted a permanent body by General Laws, Chapter 6, Sections 26-28, as amended by Acts of 1924, Chapter 200. The Governor, with the advice and consent of the Council, acting in pursuance of the provisions of said statutory provision, in September, 1924, re-appointed all the three members of the board for a further term of five years. The Commissioners, following their re-appointment, met and organized by re-electing Hollis R. Bailey as Chairman and Secretary.

### ACTS RECOMMENDED LAST YEAR.

The Commissioners a year ago recommended the adoption of two uniform laws, viz:—The Uniform Fraudulent Conveyances Act and the Uniform Conditional Sales Act.

The first of these, viz., The Uniform Fraudulent Conveyances Act, was enacted by Chapter 147, of the Acts of 1924, and took effect July first, nineteen hundred and twenty-four. The second, The Uniform Conditional Sales Act, was not adopted.

### ACTS RECOMMENDED THIS YEAR.

#### 1. *Uniform Conditional Sales Act.*

The Commissioners believe the Conditional Sales Act to be a desirable piece of legislation, and they again recommend its adoption. The Uniform Sales Act has been a part of the law of Massachusetts since 1908, and has also become the law in at least twenty-six other States and jurisdictions. The Uniform Conditional Sales Act supplements the general sales act. It has been enacted in eight States, including such important commercial States as New York, New Jersey and Wisconsin. Many of its leading provisions are the law in a still larger number of States.

#### 2. *Uniform Occupational Diseases Act.*

The Commissioners also recommend the adoption and enactment of the Uniform Occupational Diseases Act. This was approved by the National Conference of Commissioners on Uniform State Laws in 1920, and by the American Bar Association in 1921. The enactment of this Uniform Act will enable the Industrial Accident Board to award compensation in some cases not now covered by the Workmen's Compensation law. The principles embodied in the Workmen's Compensation law apply to cases of disability arising from occupational diseases. In Europe and in several of the United States legislation has been enacted which covers occupational diseases. Justice requires the adoption of this uniform law.

#### 3. *Uniform Declaratory Judgments Act.*

The Commissioners also recommend the enactment of the Uniform Declaratory Judgments Act. This was approved by the National Conference of Commissioners in 1922, and by the American Bar Association in the following year. The provisions of this act are taken largely from the English law, where the practice proposed has been thoroughly tried and found to be satisfactory. In



Massachusetts the legislature has always been allowed to ask the Supreme Judicial Court for its opinion as to the constitutionality of proposed legislation.

Trustees and Executors now for many years have been allowed to ask the Supreme Judicial Court or the Probate Court for instructions as to the meaning of wills, and as to their duty in carrying out the provisions of the same. Business men will derive much benefit, and will be saved large expense, if they are provided with a practical way in which to ascertain in advance their rights and obligations under existing contracts. This act has been adopted in six States.

#### ANNUAL MEETING OF CONFERENCE.

The Thirty-fourth annual meeting of the National Conference of Commissioners on Uniform State Laws was held at the Bellevue-Stratford Hotel, Philadelphia, Pa., July 1-8, 1924. The Conference held three sessions a day and considered specific drafts on Uniform Acts as follows:—

1. Third Tentative Draft of a Uniform Arbitration Act.
2. Fourth Tentative Draft of a Uniform Mortgage Act (with reference to real estate mortgages).
3. Ninth Tentative Draft of a Uniform Incorporation Act.
4. Second Tentative Draft of a Uniform Sale of Securities Act.
5. Second Tentative Draft of a Uniform Chattel Mortgage Act.
6. First Tentative Draft of a Uniform Act Governing the use of Highways by Vehicles.
7. First Tentative Draft of a Uniform Act to Regulate the Sale and Possession of Firearms.
8. First Tentative Draft of a Uniform Act for One Day's Rest in Seven.
9. First Tentative Draft of an Act to Validate Certain Written Transactions without Consideration.
10. First Tentative Draft of an Act to Validate Transactions between a Person Acting on His Own Behalf and the Same Person Acting Jointly With Others.
11. First Tentative Draft of an Act Concerning the Discharge of Obligors Bound for the Same Debt.

Only one act was finally approved, viz:—the Uniform Arbitration Act. This act, as approved, is radically different from the New York and New Jersey Acts, and is similar to the Illinois Act.

The American Bar Association has not yet taken any action on this proposed law but will doubtless do so next year.

#### OFFICERS OF THE CONFERENCE.

Nathan William MacChesney of Chicago, Illinois, was re-elected President.

Joseph F. O'Connell, Esq., of Boston, Mass., was re-elected Vice-President.

Professor George G. Bogert of the Cornell Law School, Ithaca, N. Y., was re-elected Secretary.

W. O. Hart, Esq., of New Orleans, La., was re-elected Treasurer, and Jesse A. Miller, Esq., of Des Moines, Ia., was elected Chairman of the Executive Committee.

Professor Samuel Williston, of the Harvard Law School, was appointed a member of the Committee on Scope and Program; also Chairman of the Committee on Co-operation with the American Law Institute; also a member of the Uniform Commercial Acts Section.

Hollis R. Bailey, of Boston, Mass., was re-appointed a member of the Committee on a Uniform Mortgage Act, also was re-appointed a member of Committee for a Uniform Act for Compacts and Agreements between States.

Joseph F. O'Connell, of Boston, Mass., was re-appointed Chairman of Committee on Uniform Arbitration Act.

A new system of committee work by the creation of Sections with sub-committees was inaugurated.

# FINANCIAL STATEMENT.

Amount of Appropriation . . . . .		\$750 00
Paid Samuel Williston, traveling and other expenses .	\$115 75	
Paid Joseph F. O'Connell, traveling and other expenses .	280 12	
Paid Hollis R. Bailey, traveling and other expenses .	193 13	
Paid contribution towards expenses of National Conference	100 00	
Paid Printing Annual Report . . . . .	8 94	
	<hr/>	
	\$697 94	
Unexpended Balance . . . . .	52 06	
	<hr/>	
		\$750 00

HOLLIS R. BAILEY,  
SAMUEL WILLISTON,  
JOSEPH. F. O'CONNELL.

*Commissioners on Uniform State Laws.*



# The Commonwealth of Massachusetts

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## ANNUAL REPORT

OF THE

## COMMISSIONERS ON UNIFORM STATE LAWS

FOR THE

Year ending November 30, 1925

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# The Commonwealth of Massachusetts

## SEVENTEENTH ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORM STATE LAWS.

*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:*—The Commissioners on Uniform State Laws during the year ending November 30, 1925 have been Hollis R. Bailey, Chairman and Secretary, Prof. Samuel Williston and Joseph F. O'Connell. They respectfully submit the following report:

### ACTS RECOMMENDED LAST YEAR

The Commissioners a year ago recommended the adoption of three uniform laws, viz.:—The Uniform Conditional Sales Act, The Uniform Occupational Diseases Act, and The Uniform Declaratory Judgments Act.

The Chairman of the Industrial Accident Board did not favor the adoption of the Uniform Occupational Diseases Act and we did not press its enactment.

A hearing was had before the Judiciary Committee on the Uniform Conditional Sales Act. This uniform law has been enacted in ten States, including such important commercial States as New York, New Jersey and Wisconsin. Enactment of the law was opposed by persons representing the furniture business and other concerns engaged in selling goods on the instalment plan.

The Judiciary Committee by reason of this opposition refused to recommend the adoption of the act. We do not present it this year.

A hearing was also had before the Judiciary Committee on the Uniform Declaratory Judgments Act. This act has been adopted in eight States. Frank W. Grinnell, Esq., Secretary of the Judicial Council, suggested to the Judiciary Committee that a bill upon the same subject had been prepared by Judge Sheldon when he was Chairman of the Judicature Commission and the matter was one which might well be considered by the Judicial Council before being acted upon by the Judiciary Committee.

The matter accordingly was referred to the next General Court.

### ANNUAL MEETING OF THE CONFERENCE

The thirty-fifth annual meeting of the National Conference of Commissioners on Uniform State Laws was held in Detroit, Michigan, August 25-31, 1925. The Conference considered and again finally approved a Uniform Arbitration Act.

It considered a uniform mortgage act and decided not to approve the same.

It discussed a Uniform Act Governing the Use of Highways by Vehicles, a Uniform Extradition Act, a Federal Tax Lien Registration Act, a Uniform Chattel Mortgage Act, a Uniform Trust Receipts Act and a Uniform Fire Arms Act and voted that these acts be further considered by the several committees having the same in charge.

The Conference finally approved the Uniform Written Obligations Act, the Uniform Inter-party Agreement Act, and the Uniform Joint Obligations Act and recommended the same for adoption.

The American Bar Association at a meeting in September approved the Uniform Arbitration Act and the three acts last above mentioned.

### OFFICERS OF THE CONFERENCE.

George B. Young of Montpelier, Vt., was elected President.

Jefferson P. Chandler of Los Angeles, Cal., was elected Vice-President.

George G. Bogert, now of Chicago, Ill., was re-elected Secretary.

W. O. Hart of New Orleans, La., was re-elected Treasurer.

Jesse A. Miller of Des Moines, Ia., was re-elected Chairman of the Executive Committee.

Prof. Samuel Williston was appointed a member of the Committee for Co-operation with American Law Institute; also a member of the Committee on Scope and Program and a member of the Uniform Commercial Acts Section; also chairman of Committee on Amendments of Uniform Acts.

Joseph F. O'Connell was appointed a member of the Uniform Torts and Criminal Law Section.

Hollis R. Bailey was appointed chairman of Committee on Uniform Marriage and Divorce Acts and a member of the Uniform Social Welfare Acts Section.

#### ACTS RECOMMENDED THIS YEAR FOR ENACTMENT IN MASSACHUSETTS.

##### 1. *Uniform Declaratory Judgments Act.*

The Commissioners again recommend the enactment of the Uniform Declaratory Judgments Act. This act has been adopted in eight States, including New Jersey and Pennsylvania. The reasons which were advanced last year for the adoption of the act still hold good. This act, after several years consideration, was approved by the National Conference of Commissioners in 1922; and in 1923 was approved by the American Bar Association. The act was drafted after a very careful study of the English law and practice on the subject of declaratory judgments. The fact that eight States have already adopted the uniform law makes it very desirable that Massachusetts should enact the uniform law rather than adopt a law worded in a different way. Before the uniform law was recommended, five States, viz., Florida, Michigan, Wisconsin, Kansas and New York had adopted the principle which is the basis of the law.

We believe that this Uniform Law is a good law and we hope it will be adopted in Massachusetts this year.

##### 2. *Uniform Law Relating to the Discharge of Obligors Bound for the same Debt.*

This law was drafted by Prof. Williston at the suggestion of the American Law Institute, was carefully considered by a committee of the National Conference of Commissioners on Uniform State Laws and by the Conference as a whole and was finally approved at the last meeting of the Conference in August, 1925. It was approved by the American Bar Association at a meeting held in September, 1925.

It is universally agreed that the common law in regard to joint obligations is likely to work injustice. The effect of the common law very often is not fully understood by the parties that enter into such obligations or by those to whom they are bound and the results are often very technical.

It is with a view to correcting these injustices that the present uniform law has been prepared.

#### FINANCIAL STATEMENT.

Amount of Appropriation . . . . .		\$750 00
Paid Samuel Williston, traveling and other expenses . . . . .	\$114 58	
Paid Joseph F. O'Connell, traveling and other expenses . . . . .	247 16	
Paid Hollis R. Bailey, traveling and other expenses . . . . .	115 08	
Paid Contribution towards expenses of National Conference . . . . .	100 00	
Paid Printing Annual Report . . . . .	12 00	
	<hr/>	
	\$588 82	
Unexpended balance . . . . .	161 18	
	<hr/>	
		\$750 00

HOLLIS R. BAILEY,  
SAMUEL WILLISTON,  
JOSEPH F. O'CONNELL,

*Commissioners on Uniform State Laws.*



The Commonwealth of Massachusetts

MASS.  
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COLL.

ANNUAL REPORT

OF THE

COMMISSIONERS ON UNIFORM  
STATE LAWS

FOR THE

Year ending November 30, 1926





# The Commonwealth of Massachusetts

## EIGHTEENTH ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORM STATE LAWS

*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:*—The Commissioners on Uniform State Laws during the year ending November 30, 1926 have been Hollis R. Bailey, Chairman and Secretary, Prof. Samuel Williston, and Joseph F. O'Connell. Under the provisions of General Laws, Chapter 6, Sections 26-28 as amended by Acts 1924, Chapter 200, the board is constituted a permanent one.

As required by law they submit this their annual report.

### WORK OF THE BOARD

The work of the members of the Board is much the same in its general character each year. Early in December they prepare and file with the Secretary of State or other proper officer a statement as to what legislation they will ask to have enacted at the coming session of the Legislature. With this statement they file copies of the proposed acts.

When the Legislature convenes they appear before the Judiciary Committee or such other committees as may have the duty of considering and reporting on the bills presented.

During the winter as members of different committees they do considerable work in drafting and discussing new uniform laws to be considered at the next Annual Meeting of the National Conference of Commissioners on Uniform State Laws.

The Annual Meeting, held in the summer, lasts for one week and there are two and sometimes three sessions each day and the time is devoted to a consideration section by section of each law which is to be approved and recommended for adoption in the different States.

Nearly all the States are represented by one or more commissioners at each Annual Conference.

The vote on the approval of acts is taken by States and no act is approved except upon the affirmative vote of at least twenty States.

### ACTS RECOMMENDED IN MASSACHUSETTS LAST YEAR

The Commissioners for this Commonwealth recommended last year the enactment by the Legislature of two Uniform Laws, viz., The Uniform Declaratory Judgments Act, and The Uniform Law Relating to the Discharge of Obligors Bound for the same Debt.

A hearing was had before the Judiciary Committee on both of the proposed acts and the report of said Committee was in each case adverse. The Commissioners were a good deal surprised at the result because the opposition to the first of said bills was slight and there was no opposition to the second of said bills.

As we have repeatedly pointed out, all the proposed uniform laws are prepared and very carefully considered by persons who may be considered to be experts. The commissioners work without compensation. Their only reward is the belief that they are rendering valuable public service.

When the Massachusetts Legislature fails to enact the uniform laws which are recommended the Commonwealth loses the benefit of the work which is done by her own commissioners and by the commissioners of all the States.

### ANNUAL MEETING OF THE CONFERENCE

The thirty-sixth annual meeting of the National Conference of Commissioners on Uniform State Laws was held in Denver, Colorado, July 6-July 12, 1926.

Two of your commissioners, viz., Hollis R. Bailey and Samuel Williston, attended the meetings and took part in the work that was done. Eight Uniform Acts were finally approved, viz.:—

1. Uniform Federal Tax Lien Registration Act
2. Uniform Fire Arms Act.
3. Uniform Criminal Extradition Act.
4. Uniform Chattel Mortgage Act.
5. Uniform Motor Vehicle Registration Act.
6. Uniform Motor Vehicle Certificate of Title and Anti-Theft Act.
7. Uniform Motor Vehicle Operator's and Chauffeur's License Act.
8. Uniform Act Regulating the Operation of Vehicles on Highways.

The Conference voted to resume work upon a Uniform Mortgage Act and a new committee on the subject was appointed. Considerable work was done on a Uniform Mechanic's Lien Act and a Uniform Trust Receipts Act. A new Uniform Child Labor Act and a new Uniform Divorce Act were ready but lack of time prevented their consideration.

#### OFFICERS OF THE CONFERENCE

George B. Young of Montpelier, Vt. was re-elected President.  
 Samuel Williston of Belmont, Mass. was elected Vice-President.  
 George G. Bogert of Chicago was re-elected Secretary.  
 W. O. Hart of New Orleans, La. was re-elected Treasurer.  
 Jesse A. Miller of Des Moines, Ia. was re-elected Chairman of the Executive Committee.

The usual Committees were appointed.

Hollis R. Bailey was re-appointed Chairman of Committee on Marriage and Divorce Acts.

Prof. Samuel Williston was re-appointed a member of the Committee on Scope and Program and of the Committee on Commercial Laws, and also re-appointed Chairman of Committee on Amendments to Uniform Acts.

#### AMERICAN BAR ASSOCIATION

The American Bar Association at its meeting held in Denver in July 1926 approved the eight Uniform Laws above enumerated. The Association also showed its interest in the matter of procuring the enactment of Uniform Laws by creating a Legislative Committee in each State to co-operate with and assist the Commissioners in procuring the enactment of Uniform Laws. It also by its By-laws made it the duty of the Vice-President and the members of the General Council in each State to aid the Commissioners in that work. The Legislative Committee for Massachusetts is composed of Gleason L. Archer of Boston and Fitz Henry Smith, Jr. of Boston. The Vice-President for Massachusetts is Reginald Heber Smith of Boston and the member of the General Council is John E. Hannigan of Boston.

The American Bar Association is also making an effort to enlist the support and secure the assistance of the state bar associations in each State. By-law Ten of the By-laws of the Association requires the Secretary of the Association to send to the President of each State Bar Association a request that his bar association co-operate with the Vice-President and members of the General Council of the American Bar Association and the Commissioners on Uniform State Laws in his State in procuring the enactment of Uniform Laws.

#### COMMERCIAL LAW LEAGUE

The Commercial Law League of America is also taking an active interest in the cause of Uniform state legislation. It has created a committee of three members in each State on uniform state laws whose duty it is to aid the Commissioners of the Conference in each State in securing the enactment of the uniform acts. The committee for Massachusetts consists of Lloyd Makepiece of Boston, William M. Silverman of Boston and Cornelius A. Parker of Boston.

The Commissioners in Massachusetts hope that the Legislature in Massachusetts will now recognize as never before the importance of the work which the Commissioners in Massachusetts and in all the States are seeking to accomplish.

#### ACTS RECOMMENDED THIS YEAR FOR ENACTMENT IN MASSACHUSETTS

1. *Uniform Declaratory Judgments Act.*

The Commissioners again recommend the enactment of the Uniform Declaratory Judgments Act. This act has been adopted in eight States, including New

Jersey and Pennsylvania. The reasons which were advanced last year for the adoption of the act still hold good. This act, after several years consideration, was approved by the National Conference of Commissioners in 1922; and in 1923 was approved by the American Bar Association. The act was drafted after a very careful study of the English law and practice on the subject of declaratory judgments. The fact that eight States have already adopted the uniform law makes it very desirable that Massachusetts should enact that law rather than adopt a law worded in a different way. Before the uniform law was recommended, five States, viz., Florida, Michigan, Wisconsin, Kansas and New York had adopted the principle which is the basis of the law.

We believe that this Uniform Law is a good law and we hope it will be adopted in Massachusetts this year.

### 2. *Uniform Federal Tax Lien Registration Act*

Every conveyancer will recognize the importance of this piece of legislation. If this act is adopted every purchaser of real estate will be able to ascertain very easily whether the property is subject to any tax lien of the Federal Government. As matters are now it is difficult if not impossible to ascertain whether a piece of real estate is subject to such a tax lien.

### 3. *Uniform Criminal Extradition Act.*

The first draft of this act was considered by the Commissioners on Uniform State Laws in 1922. It has been rewritten three times since then and has been considered in detail and is now in shape to be safely adopted by the States. The statutes and the decisions in all the States have been studied and also the decisions of the United States Supreme Court.

The matter is one of a good deal of importance and it is clearly desirable that the laws of the several States as to extradition should be uniform.

### 4. *Uniform Act Regulating the Operation of Vehicles on Highways.*

This act was finally adopted by the National Conference of Commissioners and approved by the American Bar Association in July 1926. The act represents a great deal of thought and a great deal of work. Prior to 1923 the Conference had a committee engaged in considering the subject. In 1924 this Committee submitted to the meeting of the Conference held in Philadelphia the first tentative draft of a uniform vehicle act.

The subsequent history of the act is as follows:—

The Honorable Herbert Hoover, Secretary of Commerce of the United States, called for a meeting in Washington, D. C. on December 15-17, 1924, a National Conference on Street and Highway Safety. The purpose and problem of this Conference was as stated by the Secretary of Commerce to devise and recommend measures which would reduce the traffic accidents in the country. Such National Conference on Street and Highway Safety was made up of the official delegates appointed by the Governors of forty-three States, delegates of all the voluntary organizations in the country given to promotion of greater traffic safety, including traffic and police officials and representatives of industries concerned, amounting in number to nearly one thousand. The following associations co-operated with the Department of Commerce in organizing and financing such National Conference on Street and Highway Safety:

- American Automobile Association
- American Electric Railway Association
- American Mutual Alliance
- American Railway Association
- Chamber of Commerce of the United States
- National Association of Taxicab Owners
- National Automobile Chamber of Commerce
- National Bureau of Casualty and Surety Underwriters
- National Research Council
- National Safety Council.

The matter of uniform legislation throughout the States having been initiated by the National Conference of Commissioners on Uniform State Laws, and the Committee on such matters having held various hearings and sent out questionnaires throughout the country to officials and organizations interested in greater traffic safety, the following officials and members of the National Con-



ference of Commissioners on Uniform State Laws were appointed by the Secretary of Commerce as delegates to the First National Conference on Street and Highway Safety:

The President of the Conference of Commissioners on Uniform State Laws—Nathan William MacChesney.

Chairman of the Executive Committee of such Conference—George B. Young  
Chairman of the Section of Public Law—Chester I. Long

Chairman of the Committee on Uniform Act Governing Use of Highways by Vehicles—Gurney E. Newlin

The draftsman of the Act—J. Allan Davis.

At the meeting of the First National Conference on Street and Highway Safety, eight committees were appointed to make recommendations with regard to legislative, administration and regulation, cooperative work, and future activities involved in a National Street and Highway Accident Prevention program. Said committees were charged with the duty of making a preliminary survey of the street and highway situation, of settling methods of traffic control, of investigating the question of automobile insurance and its relation to accident prevention, and of making recommendations with respect to the purposes of the Conference.

The Secretary of Commerce stated at the Second National Conference on Street and Highway Safety, held in Washington, D. C. on March 23, 24, 25, 1926.

"The outstanding feature in the reports of all of our committees last year and in the decisions of the Conference itself was the lack of uniformity in our traffic law and regulations, and the failure of many communities to benefit by the experience of others—all of which has a large responsibility in the causes of accidents.

In result of your recommendations last year, we appointed a Committee on Uniformity of Laws and Regulations and requested it to prepare for submission to this Conference a model Motor Vehicle Code which would be so drafted that it might act as a guide to the different states."

The Secretary of Commerce appointed as Chairman of the Committee on Uniformity of Laws and Regulations, General Nathan William MacChesney, past President of the National Conference of Commissioners on Uniform State Laws. General MacChesney appointed as Sub-chairman of the Committee, the Honorable George B. Young, President of the National Conference of Commissioners on Uniform State Laws; and other members of the Committee from such National Conference were Gurney E. Newlin, of Los Angeles, the Chairman of the Committee on Uniform Law Regulating the Use of Highways by Vehicles of such National Conference, and J. Allen Davis, of Los Angeles, who was the draftsman of such Act. Said Committee on Uniformity of Laws and Regulations, of the National Conference on Street and Highway Safety, in cooperation with the Committee on Uniform Act Regulating the Use of Highways by Vehicles, of the National Conference of Commissioners on Uniform State Laws, developed and submitted to the Second National Conference on Street and Highway Safety three model acts to form the basis of a Uniform Vehicle Code. The report of the committee on Uniformity of Laws and Regulations is as follows:

The Honorable Herbert Hoover, Chairman,

Conference on Street and Highway Safety,

Washington, D. C.

Sir: The First National Conference on Street and Highway Safety emphasized the importance of uniformity of traffic laws and regulations, and recommended in its report certain principles which should be embodied in those laws and regulations. In order that those principles might be properly developed on a legal basis, the Committee on Uniformity of Laws and Regulations was created some months ago. In its report the Committee recognizes that the safe, economical and convenient use of the highways requires uniformity in (a) State vehicle acts, (b) State administrative regulations, (c) Local traffic ordinances, and (d) Local traffic administrative regulations.

## STATE VEHICLE ACTS

As its primary objective, the Committee on Uniformity of Laws and Regulations, in cooperation with the National Conference of Commissioners on Uniform State Laws, has developed three model acts which it is hoped will form the basis of a Uniform Vehicle Code to consist of:

I. A Uniform Motor Vehicle Registration and Certificate of Title Act.

II. A Uniform Motor Vehicle Operators' and Chauffeurs' License Act.

III. A Uniform Act Regulating the Operation of Vehicles on Highways.

In developing the model acts the Committee has considered the principles laid down by the First National Conference on Street and Highway Safety, and the existing motor vehicle laws in the several states, as well as the proposed act prepared under the auspices of the National Conference of Commissioners on Uniform State Laws, and has endeavored to incorporate the principles referred to and to include the best provisions of all of these legislative acts.

In submitting these three acts, the Committee recommends that if they are approved by the Conference they be submitted to the National Conference of Commissioners on Uniform State Laws as the basis for proper uniform state laws on the subject. It is assumed that when the acts come up for consideration in the various states they will be studied carefully by the legal experts of those states to determine upon any modifications necessary to meet the constitutional or other legal requirements of those states.

Registration of vehicles is already required in all states, certificates of title and licensing of operators and chauffeurs in many, and the Committee is strongly of the belief that all of these things are necessary and that uniform requirements throughout the country are of great importance. The need for Act III—A Uniform Act Regulating the Operation of Vehicles on Highways—is paramount, however, and the Committee desires to point out that the development of the subject matter of the Uniform Vehicle Code and its division into three separate acts makes it possible to obtain uniformity in rules and regulations of the road and vehicle equipment by the passage of Act III separately from Act I—A Uniform Motor Vehicle Registration and Certificate of Title Act, or Act II—A Uniform Motor Vehicle Operators' and Chauffeurs' License Act.

## STATE ADMINISTRATIVE REGULATIONS

The Uniform Vehicle Code should in many respects be supplemented by state administrative regulations. The proposed Uniform Vehicle Code requires that every motor vehicle be equipped with headlamps which will provide ample driving light without glare, and a rear lamp; and that every motor vehicle be equipped with brakes and certain other standard equipment. The law having declared in general terms what equipment is necessary and the results to be attained, then the matter of technical specifications to be met by such equipment in order to comply with the law may well be the subject of regulations to be adopted by administrative officers of the state.

The proposed Uniform Vehicle Code declares as matters of law certain limitations as to the size and weight of vehicles, vesting authority in the state highway officials to modify such limitations by administrative regulation when particular conditions necessitate reduction in size or weight or there is need for temporary removal of the limitation.

Uniform regulations as to technical details of equipment should be secured through the development of a series of codes by the associations of the officials concerned, with the cooperation of properly qualified public, scientific and commercial bodies, through the medium of joint committees.

## LOCAL TRAFFIC ORDINANCES

As has already been indicated, it is necessary that there be uniformity, so far as practicable, in local ordinances and regulations as well as in state laws and regulations. One of the principal functions of local governments in respect to traffic regulations is the enforcement by municipal authorities of the provisions of the state laws.

Local governments also have certain functions peculiarly their own, such as the placing and maintenance of street signs, signals and markings, the careful

investigation of accidents, the establishing of parking regulations and other special traffic rules. In regard to some of these, complete uniformity in the provisions of the ordinances of various cities is both desirable and practicable, and even where special local requirements are necessary, they should be treated in a uniform manner and enforced by uniform procedure.

The Committee on Uniformity of Laws and Regulations looks forward to the eventual development of a model ordinance for all municipalities throughout the country. For the present, however, the Committee believes the best progress toward uniformity of local ordinances can be obtained through the action of state or regional conferences of persons and organizations interested, including municipal officials immediately concerned in their enactment and enforcement.

#### LOCAL TRAFFIC ADMINISTRATIVE REGULATIONS

In local as in state traffic regulation certain matters can be treated better by administration than by legislation. The measures already outlined with reference to state laws and regulations and municipal ordinances will of themselves promote uniformity in the application of municipal regulation. Any model ordinance should empower local authorities to promulgate supplementary rules and regulations, and uniformity in such regulations should be secured in the same manner as has been recommended in the case of state regulations.

#### CONCLUSION

The Committee recognizes that this report does not cover the entire field of legislation. Legislative and administrative measures are required for such subjects as railroad grade-crossing elimination and protection, and street and highway planning, construction and maintenance. All these measures must be properly enforced and must further be supplemented by research, educational activity and cooperative effort as recommended by the First National Conference on Street and Highway Safety, and by the reports of other committees appointed subsequent to the First Conference.

By the Committee,

NATHAN WILLIAM MacCHESNEY, *Chairman*.

Washington, D. C.

January 29, 1926.

In his opening address to the Second National Conference on Street and Highway Safety, the Honorable Herbert Hoover, Secretary of Commerce, stated:

"You have had placed before you a model Motor Vehicle Code consisting of three suggested laws which, if adopted by all of the States, will bring about uniformity of laws and regulations. I consider this to be perhaps the outstanding concrete accomplishment of the two years of work of the Conference on Street and Highway Safety. In making this statement I do not depreciate in any way the work of any of the other committees. Their work is the foundation for it. This Code is largely based on the results of their work and could hardly have been designed in a manner which seems to be so satisfactory to all groups had it not been for their services. The Committee is headed by one of the nation's most distinguished lawyers. He has had in the personnel of his committee well known lawyers, engineers, State and City officials, and representatives of practically all of the groups affected by the traffic situation. The Committee has worked hard. It has had the benefit of the invaluable assistance of the National Conference of Commissioners on Uniform State Laws. Its draftsman is a man of long experience in motor vehicle legislation. It is my belief that in presenting the three suggested laws which make up this Code to the various State Legislatures throughout the United States, this Conference is making a contribution to the effort to save lives and human suffering which can never be measured in dollars and cents."

The National Conference of Commissioners on Uniform State Laws, at its meeting held in Detroit in 1925, considered the second tentative draft of a Uniform Act and made certain recommendations with respect thereto. Of the Committee presenting this draft, Mr. Gurney E. Newlin was Chairman, and Mr. J. Allen Davis, of Los Angeles, was the draftsman of the Act. Such Act



so considered and tentatively approved by the Conference was the basis of the Motor Vehicle Code submitted to the Second National Conference on Street and Highway Safety. The Second National Conference on Street and Highway Safety directed that the Code be divided into four instead of three Acts, to consist of

- (1) A Uniform Motor Vehicle Registration Act
- (2) A Uniform Anti-theft Act
- (3) A Uniform Motor Vehicle Operators' and Chauffeurs' License Act
- (4) A Uniform Act Regulating the Operation of Vehicles on Highways,

and with certain other modifications approved by such Conference, the Code was endorsed and recommended to the National Conference of Commissioners on Uniform State Laws and to the several State Legislatures as the basis for uniform legislation on the subject. Said Code as modified by such Second National Conference was submitted to the National Conference of Commissioners on Uniform State Laws at its meeting held in Denver in July, 1926, as the third tentative draft of a Uniform Vehicle Code. Said Conference, after detailed consideration of every provision in the Code, approved it in the form hereinafter set forth and recommended it to the legislatures of the States for adoption. Said Code was further submitted to the American Bar Association at its meeting held in Denver in the same month, and was by such Association approved and recommended for adoption.

The Code has been developed as the result of years of investigation and study. The provisions contained in it have had the consideration of all of the organizations in the country vitally interested in the regulation of vehicles on highways, the licensing of the operators thereof, the registration and protection of title of such vehicles. Its adoption by the several State Legislatures is recommended by the National Conference on Street and Highway Safety and all of the organizations and officials making up that Conference, the National Conference of Commissioners on Uniform State Laws, and the American Bar Association.

#### FINANCIAL STATEMENT

1926

Amount of Appropriation .....		\$750.00
Apr. 20 Paid W. O. Hunt, Treas. Contribution toward expenses of National Conference		\$100.00
H. R. Bailey, expense of typewriting annual report and uniform acts .....	17.90	
Mass. State Prison, printing annual report	11.03	
Apr. 29 Joseph F. O'Connell, traveling and other expenses	76.36	
July 31 Hollis R. Bailey, expenses to and at Denver, Col.	226.98	
Aug. 4 Samuel Williston, expenses to and at Denver, Col.	229.33	
Nov. 29 H. R. Bailey, expense typewriting annual report, &c.	18.00	
Nov. 30 Unexpended balance .....	70.40	\$750.00
		<hr/>
		\$750.00

HOLLIS R. BAILEY,  
SAMUEL WILLSTON,  
JOSEPH F. O'CONNELL,

*Commissioners on Uniform State Laws.*

# The Commonwealth of Massachusetts

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## ANNUAL REPORT

OF THE

## COMMISSIONER ON UNIFORM STATE LAWS

FOR THE

Year ending November 30, 1927

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# The Commonwealth of Massachusetts

## NINETEENTH ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORM STATE LAWS

*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:*—The Commissioners on Uniform State Laws during the year ending November 30, 1927, have been Hollis R. Bailey, Chairman and Secretary, Prof. Samuel Williston, and Joseph F. O'Connell. Under the provisions of General Laws, Chapter 6, Sections 26-28 as amended by Acts 1924, Chapter 200, the board is constituted a permanent one.

As required by law they submit this their annual report.

Hollis R. Bailey has been a commissioner since 1909; Prof. Samuel Williston since 1910, and Joseph F. O'Connell since 1914. Previous to 1910, Prof. James Barr Ames, Dean of the Harvard Law School, was chairman of the Board 1902-1910.

### MASSACHUSETTS UNIFORM LAWS

The following is a list of those of the uniform laws which are now in force in Massachusetts:—

Uniform negotiable instrument act,	(1898)
Uniform sales act,	(1908)
Uniform warehouse receipts act,	(1909)
Uniform stock transfer act,	(1910)
Uniform Bills of lading act,	(1910)
Uniform foreign wills acts,	(1911)
Uniform desertion act,	(1911)
Uniform child labor act,	(1913)
Uniform marriage evasion act,	(1913)
Uniform Partnership act,	(1922)
Uniform limited partnership act,	(1923)
Uniform fraudulent conveyances act,	(1924)

### ANNUAL MEETING OF THE CONFERENCE

The thirty-seventh annual meeting of the National Conference of Commissioners on Uniform State Laws was held at Buffalo, New York, August 29-September 5, 1927. A uniform real estate mortgage act was finally approved.

Much time was devoted to consideration of a Uniform Business Corporation Act and a Uniform Public Utilities Act.

These acts were tentatively approved and without doubt will be finally approved next year. The Conference also considered a Uniform Trust Receipts Act, a Uniform Mechanics' Lien Act and a Uniform chattel Mortgage Act. These acts will be further considered next year. A new Uniform Child Labor Law and a new Uniform Divorce Law are ready for consideration next year.

### OFFICERS ELECTED

George B. Young, Esq., of Montpelier, Vermont, having served as President for two years, declined re-election; and Jesse L. Miller, Esq., of Des Moines, Iowa, for several years chairman of the Executive Committee, was elected President. Prof. George G. Bogert of Chicago, Illinois, was re-elected Secretary, and W. O. Hart, Esq., of New Orleans, was re-elected treasurer.

The usual committees were appointed. Hollis R. Bailey was appointed Chairman of the Committee on Marriage and Divorce Acts. Prof. Samuel Williston was appointed a member of the Committee on Scope and Program and of the Committee on Commercial Law.

## ACTS RECOMMENDED THIS YEAR FOR ENACTMENT IN MASSACHUSETTS

The Commissioners this year recommend the enactment of two Uniform Laws, Viz:—

1. The Uniform Declaratory Judgments Act.
2. The Uniform Act Concerning the Discharge of Obligors, bound for the same Debt or Liability.

The first of these acts, viz.,—The Declaratory Judgments Act,—has been recommended at least twice in previous years.

The Commissioners again recommend the enactment of the Uniform Declaratory Judgments Act. This act has been adopted in eight States, including New Jersey and Pennsylvania. The reasons which were advanced last year for the adoption of the act still hold good. This act, after several years' consideration, was approved by the National Conference of Commissioners in 1922; and in 1923 was approved by the American Bar Association. The act was drafted after a very careful study of the English law and practice on the subject of declaratory judgments. The fact that eight States have already adopted the Uniform Law makes it very desirable that Massachusetts should enact that law rather than adopt a law worded in a different way. Before the Uniform Law was recommended, five States, viz., Florida, Michigan, Wisconsin, Kansas and New York, had adopted the principle which is the basis of the law.

We believe that this Uniform Law is a good law and we hope it will be adopted in Massachusetts this year.

No one appeared last year to oppose this act. The fact that the law was not approved by the Judiciary Committee last year simply indicates that the Committee was not then ready to report favorably. The Uniform Partnership Act was held in abeyance several years before it was finally enacted.

It is the duty of your commissioners to recommend for enactment such legislation as they think desirable and it is in the performance of this duty that they recommend for consideration this piece of legislation which they believe is very desirable.

The second of the acts recommended, viz.,—The Uniform Law relating to the Discharge of Obligors Bound for the Same Debt,—was recommended by your Commissioners in 1925.

This law was drafted by Professor Williston at the suggestion of the American Law Institute, was carefully considered by a committee of the National Conference of Commissioners on Uniform State Laws and by the Conference as a whole and was finally approved at the meeting of the Conference in August, 1925. It was approved by the American Bar Association at a meeting held in September, 1925.

It is universally agreed that the common law in regard to joint obligations is likely to work injustice. The effect of the common law very often is not fully understood by the parties that enter into such obligations or by those to whom they are bound and the results are often very technical.

It is with a view to correcting these injustices that the present uniform law has been prepared.

We believe that this law is a desirable piece of legislature and hope it may be enacted.

## FINANCIAL STATEMENT

Amount of Appropriation ..... \$750.00

*Expenses*

Paid Hollis R. Bailey, for traveling and other expenses....	\$119.45
“ Samuel Williston, for traveling and other expenses...	228.02
“ Joseph F. O’Connell, for traveling and other expenses	57.85
“ W. O. Hart, Treasurer of National Conference of Com- missioners, contribution toward expenses of National Conference .....	100.00
“ Printing Annual Report .....	39.65
Unexpended balance .....	205.03
	<hr/>
	\$750.00

HOLLIS R. BAILEY,

*Chairman and Secretary.*



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# The Commonwealth of Massachusetts

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## ANNUAL REPORT

OF THE

## COMMISSIONERS ON UNIFORM STATE LAWS

FOR THE

Year ending November 30, 1928



# The Commonwealth of Massachusetts

## TWENTIETH ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORM STATE LAWS

*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:—*

The Commissioners on Uniform State Laws during the year ending November 30, 1928, have been Hollis R. Bailey, Chairman and Secretary, Prof. Samuel Williston and Joseph F. O'Connell. Under the provisions of General Laws, Chapter 6, Sections 26-28 as amended by Acts 1924, Chapter 200, the board is constituted a permanent one.

As required by law they submit this their annual report.

Hollis R. Bailey has been a commissioner since 1908; Prof. Samuel Williston since 1910, and Joseph F. O'Connell since 1914. Previous to 1910, Prof. James Barr Ames, Dean of the Harvard Law School, was chairman of the Board, 1902-1910.

### MASSACHUSETTS UNIFORM LAWS.

The following is a list of those of the uniform laws which are now in force in Massachusetts:—

Uniform negotiable instrument act,	(1898)
Uniform sales act,	(1908)
Uniform warehouse receipts act,	(1909)
Uniform stock transfer act,	(1910)
Uniform bills of lading act,	(1910)
Uniform foreign wills act,	(1911)
Uniform desertion act,	(1911)
Uniform child labor act,	(1913)
Uniform marriage evasion act,	(1913)
Uniform partnership act,	(1922)
Uniform limited partnership act,	(1923)
Uniform fraudulent conveyance act,	(1924)

### ANNUAL MEETING OF THE NATIONAL CONFERENCE

The Thirty-eighth annual meeting of the Conference of Commissioners on Uniform State Laws was held at Seattle, Washington in July, 1928.

A Uniform Business Corporation Act was finally approved by the Conference and the same is true of a Uniform Public Utilities Act; also a Uniform Reciprocal Taxes Transfer Act was considered and approved by the Conference. These acts were recommended for enactment by the Legislatures of the several states and were approved by the American Bar Association at its meeting held in July.

A Uniform Veterans Guardianship Act was also considered and approved by the Conference and subsequently approved by the American Bar Association.

The Uniform Mechanics Lien Act was further considered; several amendments to the Uniform Negotiable Instruments Act were considered; a Uniform State Air Licensing Act was considered, and several other uniform laws were the subject of discussion.

Jesse A. Miller, Esq., of Des Moines, Iowa, was elected President; F. M. Clevenger, Esq., of Wilmington, Ohio, was elected Vice-President; John H. Vorhees, Esq., of Sioux Falls, South Dakota, was elected Secretary; and the Hon. William M. Hargest of Harrisburg, Pennsylvania, was elected Chair-

mar of the Executive Committee; and W. O. Hart, Esq., of New Orleans, Louisiana, was re-elected Treasurer.

Professor Samuel Williston of Massachusetts was appointed Chairman of the Committee on Scope and Program.

#### ACTS RECOMMENDED THIS YEAR FOR ENACTMENT IN MASSACHUSETTS

The Commissioners recommend the enactment of the following uniform laws, namely:—

##### 1. *Uniform Declaratory Judgments Act.*

This act has been recommended already several times in previous years. This act is so important and the reasons for its enactment are so convincing that we feel it our duty to again recommend its enactment in Massachusetts.

This act, after several years' consideration, was approved by the National Conference of Commissioners in 1922, and in 1923 was approved by the American Bar Association. The act was drafted after a careful study of English law and practice on the subject of declaratory judgments. The act has already been adopted in states. Its constitutionality has been considered and approved by the highest courts in several of the states, including New Jersey and Pennsylvania.

Professor Edwin M. Borchard, professor of law at Yale University, in an article published in the American Bar Association Journal for December 1928, gives a valuable account of the history and importance of declaratory judgments. We quote the following:—

"Since the adoption in 1922 by the Commissioners on Uniform State Laws of the Uniform Declaratory Judgments Act, this particular reform in the administration of justice has made rapid progress. In all, some twenty-three states have now adopted the procedure, and nearly three hundred cases from 1919 to 1928 have been reported. The declaratory judgment, it will be recalled, enables the courts to render final judgment between litigants, without attaching to that judgment a coercive degree for damages or injunction. Except for such coercive degree, judgment differs in no essential respect from any other judgment between opposing parties. The judgment merely declares the rights of the parties on formal complaint or petition, as in any other suit, without necessarily invoking the sheriff's process of execution. Its great advantage lies in the fact that it enables an issue to be narrowed and to be determined *before* breach or violence has occurred. It takes account of the fact that people may have controversies as to their legal rights under a written instrument, or otherwise, which require settlement by a court *prior* to the irretrievable destruction of economic and social relations consequent upon a breach or violence, and that in many cases grave doubt or uncertainty as to legal relations may disturb the social equilibrium and require prompt judicial settlement. In an economic world held together by a network of long-term contracts and governmental regulation and control, it seems crude to insist that a dispute arising between parties can only be judicially settled if one or the other acts at his peril upon his own interpretation of his rights and takes the fatal plunge. Relations once destroyed by open breach can rarely be knit together again." . . . . "So important has the procedure for a declaratory judgment become in England that approximately 60 per cent of the equity cases have for decades been brought under that procedure."

##### 2. *Uniform Fiduciary Act.*

This act was approved by the conference in August, 1922. It is intended

to remove some of the dangers which now exist when business is transacted with trustees, especially by banks and trust companies. The rights of beneficiaries are not overlooked and are reasonably safeguarded.

This uniform law has been enacted in eleven or more states, including Colorado, Idaho, Indiana, Louisiana, Nevada, New Jersey, New Mexico, North Carolina, Pennsylvania, Utah and Wisconsin.

If enacted, this statute will clarify the law and prevent considerable litigation.

#### FINANCIAL STATEMENT

Amount of appropriation .....	\$ 750.00
Additional appropriation .....	400.00
	<hr/>
	\$1150.00

#### *Expenses*

Paid Samuel Williston, for traveling and other expenses.....	\$360.16
Paid Joseph F. O'Connell, for traveling and other expenses....	415.42
Paid W. O. Hart, Treasurer of National Conference of Commissioners on Uniform State Laws, contribution toward expenses of National Conference.....	100.00
Paid for printing annual report.....	16.25
	<hr/>
	\$ 891.83
Unexpended balance .....	<hr/>
	\$ 258.17
Total .....	<hr/>
	\$1150.00

HOLLIS R. BAILEY,

*Chairman and Secretary.*

The Commonwealth of Massachusetts

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ANNUAL REPORT

OF THE

COMMISSIONERS ON UNIFORM  
STATE LAWS

FOR THE

Year ending November 30, 1929





## The Commonwealth of Massachusetts

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### TWENTY-FIRST ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORM STATE LAWS.

*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:—*

The Commissioners on Uniform State Laws during the year ending November 30, 1929, have been Hollis R. Bailey, Chairman and Secretary, Prof. Samuel Williston and Joseph F. O'Connell.

Chapter 6 of the General Laws, as amended by Chapter 200 of the Acts of 1924, provides as follows:—

"There shall be a board of commissioners on uniform state laws, consisting of three suitable persons who shall be appointed by the governor with the advice and consent of the council for five year terms."

"The commissioners shall examine subjects upon which uniformity of legislation in the various states of the United States is desirable, but which are outside of the jurisdiction of the Congress of the United States; shall confer upon these matters with the commissioners appointed by other states for the same purpose; shall consider and draft uniform laws to be submitted for approval and adoption by the several states; and generally shall devise and recommend such other or further course of action as may tend to accomplish such purposes. They shall . . . make an annual report."

The terms of office of the above named commissioners terminated October 1, 1929. They were all recommended by the Governor for reappointment and Mr. Bailey and Mr. O'Connell were reappointed. Prof. Williston, being in poor health, declined a reappointment. This being made known to the officers of the National Conference, they requested Governor Allen to delay accepting Prof. Williston's declination with the hope that later he might be in better health and be willing to accept a reappointment.

#### ENACTMENT OF UNIFORM LAWS

It is a part of the work of the Commission to recommend for enactment in Massachusetts such of the proposed uniform laws as seem to them most desirable. In November, 1928, the Commissioners in Massachusetts decided to recommend for adoption the Uniform Declaratory Judgment Act; and The Uniform Fiduciary Act.

They considered recommending the Uniform Veterans' Guardianship Act which was framed and approved by the National Conference of Commissioners on Uniform State Laws at the request of the American Legion.

They were informed, however, that one of the most important features of the law had already been enacted in Massachusetts and that the remaining parts of the law were not desirable in Massachusetts. They accordingly decided not to present the act for adoption in Massachusetts.

A hearing was had before the Judiciary Committee on the Uniform Fiduciary Act and it appeared that a considerable part of the law was already in

force in Massachusetts and the Judiciary Committee reported against the enactment of the Uniform Law.

An interesting hearing was had before the Judiciary Committee on the Uniform Declaratory Judgments Act. In our report last year we showed that this Act was a very desirable piece of legislation and had been adopted in a great many states.

The Judicial Council again appeared in opposition to the Uniform Law and advocated the enactment of a statute which would authorize the Supreme Judicial and Superior Courts to make Rules giving the said courts power to make declaratory judgments. Your commissioners were still of the opinion that the Uniform Law is more desirable. They, however, were of the opinion that a statute ought to be enacted and urged the Judiciary Committee to recommend one of the two proposed acts rather than to reject both. The Judiciary Committee recommended the act proposed by the Judicial Council and it was enacted by the Legislature as Chapter 186 of the Statutes of 1929. On October 5, 1929, the Superior Court established a rule to take effect November 1, 1929, as to procedure under said statute.

If it shall hereafter appear that the Uniform Law, being much broader than the statute enacted, is wanted it can again be recommended for adoption by your commissioners.

#### ANNUAL MEETING OF THE NATIONAL CONFERENCE

The thirty-ninth annual meeting of the Conference of Commissioners on Uniform State Laws was held at Memphis, Tennessee, in October, 1929. Said Conference was attended by two of your Commissioners, Mr. Bailey and Mr. O'Connell. Prof. Williston was not able to attend. More than thirty of the States were represented by commissioners.

A new Child Labor Act was considered and tentatively approved. A new Divorce Act was discussed and in parts was approved. It will come up again next year.

A Blue Sky Law, entitled "Sale of Securities Act," received careful consideration. The two acts which perhaps received the most attention were the Uniform Income Apportionment Act and the Act for Securing Compulsory Attendance of Non-Resident Witnesses in Civil and Criminal Cases.

A Uniform Mechanics Lien Act was discussed somewhat but it appearing that there was considerable opposition to the Act by the wholesale lumber dealers and others, no action was taken.

The Uniform Fire Arms Act was considered at some length but was not finally adopted.

Jesse A. Miller, Esq., of Des Moines, Iowa, was re-elected President; and John H. Voorhees, Esq., of Sioux Falls, South Dakota, was re-elected Secretary. The death of W. O. Hart, of New Orleans, for many years Treasurer of the Conference, was announced. He will be greatly missed.

#### ACTS RECOMMENDED

The commissioners this year recommend for adoption in Massachusetts the Uniform Criminal Extradition Act.

The first draft of this act was considered by the National Conference in

1922. It was re-written three times in succeeding years. The statutes and the decisions of all the states were studied and also the decisions of the United States Supreme Court.

It was finally approved and recommended for adoption in the year 1926.

The statute is one of a good deal of importance and it is clearly desirable that the laws of the several states as to extradition should be uniform. It has been adopted in four States.

#### FINANCIAL STATEMENT

Amount of Appropriation ..... \$750.00

#### *Expenses*

Paid W. O. Hart, Treasurer of National Conference, contribution toward expenses .....	\$100.00
Paid for printing annual report .....	15.00
Paid Hollis R. Bailey for travelling and other expenses .....	179.41
Paid Joseph F. O'Connell for travelling and other expenses .....	<u>214.29</u>
	<u>\$508.70</u>
Unexpended balance .....	\$241.30

HOLLIS R. BAILEY,

*Chairman.*



# The Commonwealth of Massachusetts

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## ANNUAL REPORT

OF THE

## COMMISSIONERS ON UNIFORM STATE LAWS

FOR THE

Year ending November 30, 1930



PUBLICATION OF THIS DOCUMENT APPROVED BY THE COMMISSION ON ADMINISTRATION AND FINANCE.

225. 12-'30. Order 647.

# THE COMMONWEALTH OF MASSACHUSETTS

## TWENTY-SECOND ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORM STATE LAWS.

*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:—*

The Commissioners on Uniform State Laws during the year ending November 30, 1930, have been Hollis R. Bailey, Professor Joseph H. Beale and Joseph F. O'Connell. Professor Beale was appointed to take the place of Professor Samuel Williston who did not feel able to accept a re-appointment. A meeting of the Board was duly held in November 1929, and Hollis R. Bailey was again elected Chairman and Secretary.

### ENACTMENT OF UNIFORM LAWS

Last year the Commissioners recommended for enactment in Massachusetts only one piece of legislation, viz., the Uniform Criminal Extradition Act.

The first draft of this act was considered by the National Conference of Commissioners on Uniform State Laws in 1922. It was revised and again considered by the Conference in 1923, and later was still further considered and was finally approved in 1926 and recommended for adoption in all the states. The statutes and decisions of all the states were studied and also the decisions of the United States Supreme Court. This Uniform law has been adopted in at least six states, including the state of Maine.

There is no subject on which uniformity of law and practice is more to be desired than that of the extradition of persons charged with crime.

The enactment of this statute was recommended last year by the Governor of the Commonwealth in his Message to the Legislature.

The Act was also approved by the Attorney General. No one appeared before the Judiciary Committee to oppose the Act. The Judiciary Committee, nevertheless, recommended that the proposed law be referred to the Judicial Council in order that said Judicial Council might consider the act and report to the Legislature its conclusions and recommendations concerning the same in its next annual report. (See Resolves 1930, Chapter 6). Your Commissioners have appeared before said Judicial Council and have submitted to said Council considerable information concerning said proposed law. Your Commissioners are not informed as to what the recommendations of said Council will be. Inasmuch as the proposed uniform act of last year was referred to the next General Court, we are again recommending the enactment of said Uniform Criminal Extradition Act and are submitting with this report the same bill that was recommended last year.

### ANNUAL MEETING OF NATIONAL CONFERENCE

The fortieth annual meeting of the Conference of Commissioners on Uniform State Laws was held in Chicago, Illinois, during August, 1930.

Commissioner Joseph F. O'Connell was in attendance. Professor Beale was not able to go, and the same is true of the Chairman. Mr. O'Connell has given me the following account of what took place.

The new officers elected are as follows:—

Judge William M. Hargest, Harrisburg, Pa., President,

George B. Martin, Catlettsburg, Ky., Vice-President

John H. Voorhees, Sioux Falls, S. D., Secretary

Bruce W. Sanborn, St., Paul, Minn., Treasurer, and

Orie L. Phillips, Albuquerque, New Mexico, Chairman of the Executive Committee.

We had a very busy session which was largely attended. In fact, I think it was the largest attendance we have ever had.

The final action was taken on:—

1. The Child Labor Law.

2. Divorce Jurisdiction.

3. Firearms Act—In so far as it applied to pistols, revolvers and small arms, not to include machine guns and other weapons which are to come under a separate act.

4. Uniform Vehicle Act.

#### ACTS RECOMMENDED

1. The Commissioners this year again recommend for adoption in Massachusetts the Uniform Criminal Extradition Act.

We are convinced that this act is a very desirable piece of legislation and we hope it will be enacted.

2. The Commissioners also recommend the enactment in Massachusetts of the Uniform Divorce Jurisdiction Act. The chairman of the Commissioners in Massachusetts was the chairman of the committee of the Conference which drafted this divorce jurisdiction act. The Chairman had the assistance of a very able committee, including Professor Ernst Freund of the Chicago Law School, and Walter C. Clephane, Esq., of Washington, D. C. The act was considered for several years before it was finally approved. It clarifies the law of Massachusetts. It also adds a provision as to the effect of divorce granted in other states, which we believe will be found useful.

#### FINANCIAL STATEMENT

Amount of Appropriation ..... \$750.00

##### *Expenses*

Paid Bruce W. Sanborn, Treasurer of National Conference, contribution toward expenses ..... \$100.00

Paid For printing annual report ..... 15.00

Paid Joseph F. O'Connell for traveling and other expenses—

\$143.27 & \$193.55 ..... 336.82

\$451.82

Unexpended Balance ..... \$298.18

HOLLIS R. BAILEY, *Chairman*

JOSEPH H. BEALE

JOSEPH F. O'CONNELL

*Commissioners*



# The Commonwealth of Massachusetts

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## ANNUAL REPORT

OF THE

## COMMISSIONERS ON UNIFORM STATE LAWS

FOR THE

Year ending November 30, 1931



# THE COMMONWEALTH OF MASSACHUSETTS

## TWENTY-THIRD ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORM STATE LAWS.

*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:—*

The Commissioners on Uniform State Laws during the year ending November 30, 1931, have been Hollis R. Bailey, Chairman and Secretary, Professor Joseph H. Beale, Joseph F. O'Connell and Professor James M. Landis. Professor James M. Landis was appointed to take the place of Professor James H. Beale, who did not feel able to continue the work and accordingly resigned.

A meeting of the Board was held December 1, 1931, and Hollis R. Bailey was again elected Chairman and Secretary.

### UNIFORM LAWS RECOMMENDED

Last year the Commissioners recommended for enactment in Massachusetts two Uniform Laws, viz., the Uniform Criminal Extradition Act and the Uniform Divorce Jurisdiction Act. The Uniform Criminal Extradition Act, having been referred to the Judicial Council, was considered by said Council and several amendments were suggested. The Commissioners on Uniform State Laws were heard by the Judiciary Committee in support of the Act as presented by them.

The Uniform Divorce Jurisdiction Act was referred to the Committee on Legal Affairs. The Commissioners appeared and were heard in support of the Act. The Legislature rejected both said Acts.

### ANNUAL MEETING OF NATIONAL CONFERENCE

The forty-first annual meeting of the National Conference of Commissioners on Uniform State Laws was held in Atlantic City, New Jersey, in September 1931. The meeting began September 8th and continued until September 14th. There was a large attendance and a considerable number of proposed uniform laws were considered and several were finally approved and recommended for adoption. The President, the Hon. William M. Hargest, presided. Mr. Hargest was re-elected as President. John H. Voorhees, Esq., of South Dakota, was re-elected as Secretary, and Bruce W. Sanborn, Esq., of Minnesota, was re-elected as Treasurer.

Joseph F. O'Connell, Esq., one of your Commissioners, was elected a member of the Executive Committee of the National Conference. He also was appointed Chairman of the Committee of the Fire Arms Act.

Hollis R. Bailey, Esq., was appointed a member of the Uniform Social Welfare Act Section and Chairman of the Committee on Uniform Marriage and Divorce Acts.

Professor James M. Landis was appointed a member of the Committee on Compacts and Agreements between States; a member of the Committee on Legislative Drafting; also a member of the Committee on Uniform Criminal Statistics.

The Conference devoted considerable time to further consideration of the Uniform Mechanics Lien Act and approved the same tentatively, which means that it will be further considered next year.

The draft of the Uniform Principal and Income Act, the draft of the Uniform Trust Receipts Act, the draft of the Uniform Automobile Liability Security Act and the draft of a Uniform Act to Secure Attendance of Non-resident Witnesses in Criminal cases were all further considered at length.



## ACTS RECOMMENDED

The Commissioners on Massachusetts are not prepared this year to recommend any Acts for adoption by the Legislature.

The Uniform Criminal Extradition Act, which was recommended last year but was not enacted, the Commissioners consider a very desirable law and hope that sometime it may be adopted in Massachusetts.

## FINANCIAL STATEMENT

Amount of Appropriation .....	\$750.00
<i>Expenses</i>	
Paid Bruce W. Sanborn, Treasurer of National Conference, contribution toward expenses .....	\$100.00
Paid Printing annual report .....	13.00
Faid Joseph F. O'Connell for traveling and other expenses, \$82.61 and \$142.88 .....	225.49
Paid Hollis R. Bailey, for traveling and other expenses .....	100.27
Paid James M. Landis, for traveling and other expenses .....	94.98
	<u>\$533.74</u>
Unexpended Balance .....	\$216.26

HOLLIS R. BAILEY, *Chairman*  
 JOSEPH F. O'CONNELL  
 JAMES M. LANDIS  
*Commissioners*





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The Commonwealth of Massachusetts

# ANNUAL REPORT

OF THE

## COMMISSIONERS ON UNIFORM STATE LAWS

FOR THE

Year ending November 30, 1932



# THE COMMONWEALTH OF MASSACHUSETTS

## TWENTY-FOURTH ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORMS STATE LAWS.

*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:—*

The Commissioners on Uniform State Laws for the year ending November 30, 1932, have been Hollis R. Bailey, Chairman and Secretary, Joseph F. O'Connell and Professor James M. Landis.

Mr. Bailey has held office since 1908, Mr. O'Connell since 1914 and Prof. Landis since 1931.

### UNIFORM LAWS RECOMMENDED

Last year the Commissioners did not recommend for enactment in Massachusetts any of the uniform laws.

This year the Commissioners of Massachusetts recommend—

1. The Uniform Machine Gun Act.
2. The Uniform Criminal Extradition Act.
3. The Uniform Narcotic Act.
4. The Uniform Written Obligations Act.

1. The Uniform Machine Gun Act is especially needed at the present time on account of the increasing use of machine guns by the criminal classes. This Act has been carefully considered in detail and has been finally approved and recommended for enactment in all the state. It has also been approved by the American Bar Association.

2. The Uniform Criminal Extradition Act was given further consideration by the National Conference of Commissioners and several perfecting amendments were adopted at the last session of the Conference. Your Commissioners believe that this Act is a very desirable piece of legislation at the present time. They hope it can be enacted in Massachusetts.

3. The Uniform Narcotic Act has been very carefully drawn and the Commissioners on Uniform Laws had the advice and assistance of the Federal Government and its officers in the preparation of the same. It is highly desirable that the laws of all the states should be uniform in the matter of narcotics.

4. The Uniform Written Obligations Act is a short Act which was considered and approved by the National Conference of Commissioners in 1925. It was prepared by Professor Samuel Williston and is intended to enable parties having just claims to secure their payment.

## ANNUAL MEETING OF THE CONFERENCE

The Forty-second Annual Meeting of the National Conference of Commissioners on Uniform State Laws was held in the City of Washington, D. C. in October 1932. The meeting began October 4 and continued until October 10, 1932. There was a large attendance of Commissioners and a considerable number of proposed uniform laws were considered and several were finally approved and recommended for adoption. Among those approved were the following:—

The Uniform Machine Gun Act.

The Uniform Narcotic Drug Act,

The Uniform Mechanics Lien Act.

The Uniform Criminal Extradition Act.

The President, Hon. William M. Hargest, presided. Mr. Hargest was re-elected as President. John H. Voorhees, Esq., of South Dakota, was re-elected as Secretary and Bruce W. Sanborn, Esq., of Minnesota, was re-elected as Treasurer.

Joseph F. O'Connell, Esq., was appointed to be a member of the Uniform Social Welfare Section.

Prof. James M. Landis was continued as a member of the Committee on Compacts and Agreements between States and also a member of the Committee on Legislative Drafting.

### FINANCIAL STATEMENTS

Amount of Appropriation .....	\$750—reduced to \$600.00
Transferred from Small Items .....	39.25
	\$639.25

### *Expenses*

Bruce W. Sanborn, Treasurer of National Conference, contribution toward expenses .....	\$100.00
Printing the Annual Report for 1931 .....	8.85
Joseph F. O'Connell for traveling and other expenses, \$145.20, \$75.86, and \$135.30 .....	356.36
James M. Landis for traveling and other expenses .....	82.56
Hollis R. Bailey for traveling and other expenses .....	91.48
	\$639.25

Respectfully Submitted,

HOLLIS R. BAILEY, *Chairman*  
JOSEPH F. O'CONNELL  
JAMES M. LANDIS

*Commissioners*



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The Commonwealth of Massachusetts

# ANNUAL REPORT

OF THE

## COMMISSIONERS ON UNIFORM STATE LAWS

FOR THE

Year ending November 30, 1933



# The Commonwealth of Massachusetts

## TWENTY-FIFTH ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORM STATE LAWS

*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:—*

The Commissioners on Uniform State Laws for the year ending November 30, 1933, have been Hollis R. Bailey, Chairman and Secretary, Joseph F. O'Connell and Prof. James M. Landis.

Mr. Bailey by successive re-appointments has held office since 1908. Mr. O'Connell by successive re-appointments has held office since 1914. Professor Landis was appointed in 1931. Professor Landis was recently appointed by the President of the United States to hold an important Federal office and has or soon will tender his resignation as one of the Commissioners on Uniform State Laws in Massachusetts.

At a meeting of the Board in November, 1933, Hollis R. Bailey was again elected Chairman and Secretary.

### ENACTMENT OF UNIFORM LAWS

In December, 1933, the Commissioners in their annual report recommended the enactment of four of the proposed Uniform Laws viz:—

1. The Uniform Machine Gun Act.
2. The Uniform Criminal Extradition Act.
3. The Uniform Narcotic Drugs Act.
4. The Uniform Written Obligations Act.

The Uniform Narcotic Drugs Act was referred to the Committee on Public Health as House Bill 151. The other three of the above named proposed acts were referred to the Judiciary Committee.

The Commissioners and others appeared before said Committees and spoke in favor of the enactment of said laws. There was some opposition manifested to the enactment of the Machine Gun Act, the Criminal Extradition Act and the Narcotic Drugs Act and said Committees in each case reported adversely.

### ANNUAL MEETING OF NATIONAL CONFERENCE

The forty-third annual meeting of the National Conference of Commissioners on Uniform State Laws was held at Grand Rapids, Michigan, beginning August 22 and continuing to August 28. More than thirty States and jurisdictions were represented by their Commissioners. Mr. Bailey and Mr. O'Connell represented Massachusetts. Various suggestions for changes in the Uniform Machine Gun Act as approved by the Conference at Washington, D. C. in 1932 were considered and it was voted to reaffirm the Act as approved in 1932 and that no changes in the wording were necessary.

The Conference also considered various amendments which were recommended to the Uniform Stock Transfer Act which was approved in 1909 and afterwards adopted in twenty-three States. Some of the proposed amendments were found to have some merit but the Conference decided not to recommend any changes at this time.



The Uniform Agricultural Co-operative Association Act was discussed at some length but the Act was not finally approved.

Various amendments to the Uniform Negotiable Instruments Act were considered but no final action was taken thereon.

The Uniform Foreign Corporation Act was thoroughly discussed, some changes were made in it, and it was then tentatively approved. Final action on it, however, was deferred until the 1934 annual meeting of the Conference.

A number of other Acts, including the Uniform Trust Administration Act and the Uniform Trustees' Accounting Act, were considered and held for future action.

The Uniform Bank Collection Act was discussed but final action was postponed.

The eighth tentative draft of a Uniform Trust Receipts Act was finally approved and recommended for adoption by all the States.

This was the only Uniform Act finally approved by the Conference at Grand Rapids.

### OFFICERS ELECTED

The Hon. William M. Hargest was re-elected as President.

The Hon. John H. Voorhees of South Dakota was re-elected as Secretary.

Bruce W. Sanborn, Esq., of St. Paul, Minnesota, was re-elected as Treasurer.

Joseph F. O'Connell, Esq., of Massachusetts, was re-elected a member of the Executive Committee.

Prof. James M. Landis was continued as a member of the Committee on Compacts and Agreements between States, and

Hollis R. Bailey was continued as a member of the Social Welfare Acts Section.

### UNIFORM LAWS RECOMMENDED

The Commissioners in Massachusetts recommend to the Legislature which is to meet in Massachusetts in 1934 the enactment of the following:—

1. The Uniform Machine Gun Act.
2. The Uniform Criminal Extradition Act.
3. The Uniform Narcotic Drug Act.

These are three of the Acts which were recommended in Massachusetts last year.

Since last year the demand for the Machine Gun Act has very greatly increased. The growing use of machine guns by criminals in all parts of the country has made it evident that this law is greatly needed.

The Uniform Written Obligations Act is not immediately needed and we do not press for its adoption in 1934.

During 1933 the attention of the public to criminal extradition has been called by the Insull case and by other cases where justice has been defeated by the going away out of the State of alleged criminals.

The Uniform Criminal Extradition Act has been enacted in at least seven States.

The Fire Arms Act approved by the Conference in 1930 has been enacted in at least eight States.

The Narcotic Drug Act is greatly needed in order to secure the proper enforcement of the law in the different States. The improper use of narcotic drugs is increasing and is receiving world wide attention and the need of the uniform law is constantly increasing.



# FINANCIAL STATEMENT

Amount of Appropriation ----- \$627.00

## *Expenses*

Dec. 7, 1932 Clerical Services -----	27.00
Mar. 22, 1933 Jos. F. O'Connell, traveling and other expenses-----	194.83
May 31, 1933 Bruce W. Sanborn, Treas., National Conference, contribution -----	100.00
June 14, 1933 Printing Annual Report -----	8.85
Aug. 30, 1933 Hollis R. Bailey, traveling and other expenses -----	146.35
Sep. 27, 1933 Jos. F. O'Connell, traveling and other expenses-----	136.55
	<hr/>
	\$613.58

Respectfully submitted,

HOLLIS R. BAILEY

JOSEPH F. O'CONNELL

*Commisioners*

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**The Commonwealth of Massachusetts**

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**ANNUAL REPORT**

OF THE

**COMMISSIONERS ON UNIFORM  
STATE LAWS**

FOR THE

Year ending November 30, 1934



# The Commonwealth of Massachusetts

## TWENTY-SIXTH ANNUAL REPORT

### OF THE

### COMMISSIONERS ON UNIFORM STATE LAWS.

*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:—*

In compliance with the General Laws\* we have the honor to submit herewith our Annual Report for the year ending November 30, 1934.

The Commissioners at the end of the year were Joseph F. O'Connell, Chairman and Secretary, Willard B. Luther and Henry Parkman, Jr. Mr. Luther became a Commissioner on February 21, 1934, having been appointed in place of Professor James M. Landis upon resignation of the latter to accept Federal Office. Mr. O'Connell, who has been a Commissioner since 1914 by successive reappointments, and Mr. Luther were reappointed by the Governor in October, 1934, and at the same time Henry Parkman, Jr. was appointed in place of Hollis R. Bailey.

Hollis R. Bailey, who had been a member of the Commission since 1908 and Chairman for the last fifteen years declined reappointment on account of advancing years. He passed away Thursday, November 29, 1934.

Mr. Bailey was an invaluable member of the Commission, and among other noteworthy contributions to the public welfare had been active in promoting uniformity in Legislation and effecting the purposes contemplated by the law creating this Commission. He was very highly esteemed for his painstaking and thorough study of the various subjects that form the basic work of the Commission. Outstanding were his efforts in bringing about the passage of the Negotiable Instruments Act, the Sales Act and the Partnership Act, now incorporated into our General Laws, all of which have greatly aided the transaction of commercial affairs and the administration of law which, before the passage of such Acts, had been chaotic. The Commission feel that his services to the Commonwealth in the performance of his duties were of an exceptionally noteworthy character.

### ENACTMENT OF UNIFORM LAWS

Last year the Commissioners recommended for enactment in Massachusetts the following:

1. Uniform Machine Gun Act
2. Uniform Criminal Extradition Act
3. Uniform Narcotic Act

The Uniform Machine Gun Act was presented in the hope that it would be immediately adopted by the Legislature, particularly in view of the increasing use of this form of cowardly weapon by the criminal classes. The Act had been carefully considered, but the Judiciary Committee, to whom it had been referred, gave leave to withdraw. Shortly after a Federal Act was passed, and this Commission believes that it may be well to withhold further consideration of the Uniform Machine Act until the efficacy of the present Federal Act has been tested.

The Commission, at this time, recommend that the Uniform Narcotic Act, which has been carefully drawn, should be again presented to the Leg-

\*Chap. 6, Sect. 27.

islature. This Act had a thorough hearing at the last session of the Legislature and was favorably reported out by the Committee on Public Health, but failed of passage in the House. We feel that there was some misapprehension on the part of the members of the House which caused its failure. Another presentation of the measure will enable the proponents to meet the objections that were then raised and may thereby secure the passage of this law which seems so very desirable from every standpoint. It is most essential that this law should be uniform in all the States in order to effect its proper enforcement.

We also recommend for consideration and enactment the law having to do with Declaratory Judgments.

The business-world today finds an ever-increasing demand for quick decisions on questions that inevitably arise in the course of business, and it often becomes vitally necessary to decide in a preliminary way questions of law or fact upon which future action will depend. This law, in scope, contemplates that in any action the plaintiff may ask in his complaint for a declaration of his rights, either alone or with other relief; and the Court may make binding the declaration of rights. In effect, it is carrying out the practise of the Legislature in calling upon the Supreme Court to decide in advance the constitutionality of a proposed law. It is also similar to the practise in our Probate Court when trustees, or others, ask for a construction of some doubtful clause in a will or trust instrument before acting under it.

The Commissioners unanimously feel that this law is a big forward step in administrative justice beneficial to all classes of citizens. It received the endorsement of the American Bar Association in 1922 and has since been passed by the following 20 States and by Puerto Rico: Arizona, Colorado, Idaho, Indiana, Michigan, Minnesota, Nebraska, Nevada, New Jersey, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Utah, Vermont, Wisconsin and Wyoming.

## ANNUAL MEETING OF NATIONAL CONFERENCE

The Forty-fourth Annual Meeting of the National Conference of Commissioners on Uniform State Laws was held in Milwaukee, Wisconsin, August 21-29, 1934. At this Session there was discussed the consideration of the first tentative draft of the Uniform Criminal Statistics Acts; final draft of the Uniform Foreign Corporation Act; fifth tentative draft of the Uniform Bank Collection Act; first tentative draft of the proposed amendments to the Uniform Negotiable Instruments Act, covering Investment Securities; also, consideration of the first tentative draft of the Uniform Vendor and Purchaser Act of Real Estate; second tentative draft of the Uniform Aeronautics Regulatory Act, and the first tentative draft of the Uniform Airports Act. There was, also, under consideration the first tentative draft of the Uniform Business Records as Evidence Act, and the Uniform Composite Reports, as Evidence; and Uniform Judicial Notice of Foreign Laws; and there was also given consideration to the third tentative draft of the Uniform Trustees' Accounting Act; the fifth tentative draft of the Uniform Acknowledgment of Instruments Act; the second tentative draft of Uniform Civil Depositions Act.

In all, there were held fifteen sessions and twelve tentative drafts were considered. The third tentative draft of the Uniform Foreign Corporations Act was, finally, approved by the Conference, after the adoption of amendments. This Act defines the phrase "doing business" and regulates the conduct of business by foreign corporations. The general policy of this Act is to place foreign corporations on an equality with domestic corporations with respect to privileges, restrictions and liabilities. It does not effect the subject of taxation but, inasmuch as this subject would require further attention of the Commissioner of Corporations, this Commission feels it may be as well to withhold consideration of this subject for another year. The first tentative draft of the Uniform Airports Act was also approved, with amendmnets by the American Bar Association.

## OFFICERS ELECTED

At the annual meeting, Hon. Orie L. Phillips was reelected President; John H. Voorhees, Esq., was reelected Secretary. and Bruce W. Sanborn, Esq., was reelected Treasurer.

Joseph F. O'Connell was made Chairman of the Committee on Compacts and Agreements.

Respectfully submitted,

JOSEPH F. O'CONNELL, *Chairman*

WILLARD B. LUTHER,

HENRY PARKMAN, JR.

ASS.  
OCS.  
OLL.

The Commonwealth of Massachusetts

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# ANNUAL REPORT

OF THE

## COMMISSIONERS ON UNIFORM STATE LAWS

FOR THE

Year ending November 30, 1935





## The Commonwealth of Massachusetts

### TWENTY-SEVENTH ANNUAL REPORT

#### OF THE

#### COMMISSIONERS ON UNIFORM STATE LAWS.

*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:*

In compliance with General Laws we have the honor to submit herewith our Annual Report for the year ending November 30, 1935.

The Commissioners throughout the year were Joseph F. O'Connell, Chairman and Secretary, Willard B. Luther and Henry Parkman, Jr. All are serving under appointments expiring October 1939.

#### HISTORICAL SURVEY

In 1890 New York passed an Act appointing "Commissioners for the promotion of uniformity of legislation in the United States". In the same year the American Bar Association recommended similar appointments in all States. Massachusetts first appointed commissioners in 1909 pursuant to Chapter 416 of the Acts of that year. There are now commissioners for every State, the District of Columbia, Alaska, Puerto Rico, Hawaii and the Phillipine Islands, fifty-three jurisdictions being so represented.

The first national conference of commissioners was held at Saratoga in August 1892, nine States being then represented. Conferences have been held annually ever since. They are usually attended by commissioners from thirty-five to forty States, who sit for at least seven days. In addition there are during the year frequent conferences of the different section committees.

#### PROCEDURE

It is not the purpose of the conference to make all laws uniform in all States. This would be both impossible and undesirable. It is its purpose to make uniform the large number of laws which exist in every State dealing with matters which are common to all States, especially where these affect transactions in which citizens of more than one State may be involved. The Negotiable Instruments Act is perhaps the best known and has been adopted by every one of the fifty-three jurisdictions.

The work of the conference is divided between seven sections, which cover the major fields of law. They operate by committees. Proposed Acts which are approved for consideration by the Executive Committee of the whole conference are referred to the appropriate sections. A suitable committee is then appointed with a draftsman who prepares a preliminary draft of the desired Act. This is thoroughly revised in the committee and eventually reported to the conference as a First Draft.

The conference at its next meeting discusses this Draft in great detail. Many suggestions are made and the Draft, plus the suggestions, referred back to the committee. A Second Draft is then submitted, usually at the next annual meeting, and similarly reviewed. Sometimes an Act goes through six or seven Drafts before it is finally discarded or approved. When approved, the conference recommends its enactment to all States.

## RESULTS

Since its formation the conference has approved fifty-seven different Acts. An overwhelming majority of these have been adopted by a considerable number of States. Massachusetts has adopted the following eighteen Acts:

Acknowledgments (1910); Bills of Lading (1910); Child Labor (1913); Cold Storage (1912); Desertion and Non-support (1911); Federal Tax Lien Registration (1927); Foreign Executed Wills (1911); Foreign Probated Wills (1911); Fraudulent Conveyances (1924); Limited Partnership (1923); Marriage and Marriage License (1911); Marriage Evasion (1913); Negotiable Instruments (1898); Partnership (1922); Sales (1908); Stock Transfer (1910); Warehouse Receipts (1907); Narcotics (1935).

## CONFERENCE OF 1935

The forty-fifth Annual Conference was held in Los Angeles, California, July 2-9, 1935. Seventy-three Commissioners for thirty-eight States attended, including Commissioners O'Connell and Luther. Commissioner O'Connell is Chairman of the General Committee on Compacts and Agreements between States; Commissioner Luther is a member of the Property Acts Section and the Social Welfare Acts Section, and Commissioner Parkman is a member of the Civil Procedure Section.

The conference re-elected the following officers:

Honorable Orie L. Phillips of New Mexico, President. George M. Powers of Vermont, Vice-President. John H. Voorhees of South Dakota, Secretary. Bruce W. Sanborn of Minnesota, Treasurer.

The following Acts were finally approved and recommended for enactment.

Uniform Airports Act;  
Uniform Aeronautical Regulatory Act;  
Uniform Risk of Loss Act;  
Uniform Transfer of Dependents Act.

In addition drafts of some dozen other Acts were considered, discussed and referred to the next conference.

## RECOMMENDATIONS BY COMMISSIONERS

To the legislature of 1935 the Commissioners recommended the enactment of the Uniform Narcotic Drug Act and the Uniform Declaratory Judgment Act. The former passed with slight changes as Chapter 412 of the Acts of 1935. The latter did not pass, although Chapter 247 of the Acts of 1935 extended its principles to the Probate Court.

The General Court of its own initiative passed as Chapter 418 of the Acts of 1935 an Act entitled Uniform Aeronautical Code. Its passage affords an interesting illustration of the growth of the uniform law ideal. A Draft of such an Act, sponsored by bodies interested in aviation, was presented to the conference in 1932, and also to various State legislatures. At the conference in 1934 a Second Draft was considered. A final Draft was approved at this year's conference. Prior thereto, however, Massachusetts had already passed its Act, which contains many of the features finally approved by the conference.

The Commissioners now recommend to the General Court for 1936 the enactment of the following:

*Uniform Risk of Loss Act*

This rectifies a condition in regard to sales of real estate that has long

been rectified as to sales of personal property. If a building is burned down, or otherwise destroyed or damaged, after a contract for its sale has been entered into, but before title or possession has passed to the purchaser, the latter is now generally compelled to take the damaged property and pay the full price. The proposed Act does away with this injustice and also should make uniform decisions which are highly conflicting in the various jurisdictions. This Act was drafted and sponsored by Professor Samuel Williston of the Harvard Law School, for many years a Commissioner for Massachusetts.

#### *Uniform Machine Gun Act*

This was recommended to the General Court of 1934 but failed to pass. It was not recommended in 1935 because the Commissioners believed that the efficacy of the existing Federal Act might become more apparent after it had been longer tested. The passage of time has demonstrated that the Federal Act has been of real value. The Commissioners accordingly again recommend this Act. Next to the automobile the machine gun has been perhaps the greatest single aid to the gangster and anything tending to keep machine guns out of their hands should have a self-evident value. The Act was approved only in 1932, but has already been passed by a considerable number of States.

#### *Uniform Criminal Extradition Act*

This also is designed to protect the public and hamper the criminal. It was approved in 1926 and slightly amended in 1932. It has been passed by a considerable number of States, and has been urged in principle by the conference of Attorneys General summoned last year by Attorney General Cummings and by the recent inter-state conference on crime held in New Jersey upon the invitation of Governor Hoffman, and in New York upon the invitation of Governor Lehman.

#### APPROPRIATION

The Commissioners serve without compensation, but have had an annual appropriation for traveling and other actual disbursements, including a contribution of not over \$100 for the maintenance of the conference. For the last three years this appropriation has been \$600. For many years prior thereto it was \$750. The Commissioners have recommended an appropriation for the coming year of \$1,000. The suggested increase is due to two factors.

The Conference of 1936 will be held at Boston, August 18th to 24th. This will inevitably add considerable expense, although it is fortunately a non-recurring item. This is the first factor. The other is a belief that the annual payment of \$100 towards the maintenance of the conference should be increased. Not all states so contribute, but those which do are almost invariably more liberal than Massachusetts. Several allot as much as \$750 a year. The Commissioners are convinced that Massachusetts' contribution should be more nearly representative of its size and dignity. The existing Statute (G. L. Chap. 6, Section 28) limits this to \$100, and the Commissioners accordingly recommend to the General Court an amendment to this Section raising the limit to \$250.

Respectfully submitted,

JOSEPH F. O'CONNELL, *Chairman*

WILLARD B. LUTHER,

HENRY PARKMAN, JR.

ASS.  
OCS.  
OLL.

The Commonwealth of Massachusetts

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# ANNUAL REPORT

OF THE

## COMMISSIONERS ON UNIFORM STATE LAWS

FOR THE

Year ending November 30, 1936





# The Commonwealth of Massachusetts

## TWENTY-EIGHTH ANNUAL REPORT

### OF THE

### COMMISSIONERS ON UNIFORM STATE LAWS.

*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:*

In compliance with General Laws we have the honor to submit herewith our Annual Report for the year ending November 30, 1936.

The Commissioners throughout the year were Joseph F. O'Connell, Chairman and Secretary, Willard B. Luther and Henry Parkman, Jr. All are serving under appointments expiring October, 1939.

### HISTORICAL SURVEY

In 1890 New York passed an Act appointing "Commissioners for the promotion of uniformity of legislation in the United States". In the same year the American Bar Association recommended similar appointments in all States. Massachusetts first appointed commissioners in 1909 pursuant to Chapter 416 of the Acts of that year. There are now commissioners for every State, the District of Columbia, Alaska, Puerto Rico, Hawaii and the Phillipine Islands, fifty-three jurisdictions being so represented.

It is not the purpose of the conference to make all laws uniform in all States. This would be both impossible and undesirable. It is its purpose to make uniform the large number of laws which exist in every State dealing with matters which are common to all States, especially where these affect transactions in which citizens of more than one State may be involved. The Negotiable Instruments Act is perhaps the best known and has been adopted by every one of the fifty-three jurisdictions.

### RESULTS

Since its formation the conference has approved fifty-eight different Acts. An overwhelming majority of these have been adopted by a considerable number of States. Massachusetts has adopted the following nineteen Acts:

Acknowledgments (1910); Bills of Lading (1910); Child Labor (1913); Cold Storage (1912); Desertion and Non-support (1911); Federal Tax Lien Registration (1927); Foreign Executed Wills (1911); Foreign Probated Wills (1911); Fraudulent Conveyances (1924); Limited Partnership (1923); Marriage and Marriage License (1911); Marriage Evasion (1913); Negotiable Instruments (1898); Partnership (1922); Sales (1908); Stock Transfer (1910); Trust Receipts (1936); Warehouse Receipts (1907); Narcotics (1935).

### CONFERENCE OF 1936

The forty-sixth Annual Conference was held at Boston, August 17-22, 1936. Seventy-three Commissioners from forty States attended, including all the Massachusetts Commissioners. The Conference elected the following officers:

Alexander Armstrong of Maryland, President  
John H. Wigmore of Illinois, Vice-President  
Bruce W. Sanborn of Minnesota, Treasurer  
William C. Ramsey of Nebraska, Secretary

Prior to this year the Conference could consider only laws as to which uniformity in *all* States was deemed desirable. Experience over forty-five years has shown that there are relatively few laws which all States would consider desirable to have uniform. An amendment adopted at this year's annual conference permits the consideration and approval of laws of general importance as to which States might desire model Acts, and also of laws which might become the basis of inter-state compacts between groups of States, while not suitable for general uniformity between all States. The amendment brings the theoretical aims of the Conference in line with the actual results demonstrated by its history.

The Conference finally approved and recommended the following Uniform Acts:

Trustees' Accounting Act.  
 Business Records as Evidence Act.  
 Composite Reports as Evidence Act.  
 Judicial Notice of Foreign Law Act.  
 Official Reports as Evidence Act.  
 Agricultural Cooperative Association Act.  
 Criminal Extradition Act. (A revision of Act approved in 1931).  
 Attendance of Witnesses from without a State in Criminal Proceedings Act. (A revision of Act approved in 1931).

In addition a number of other Acts were considered and referred to the next Conference.

At the Conference just held Commissioner O'Connell was Chairman of the Committee on Compacts and Agreements between States; Commissioner Luther was a member of the Property Acts Section and Social Welfare Acts Section; and Commissioner Parkman was a member of the Civil Procedure Section. For the coming year the assignments are:

*Commissioner O'Connell:*

Chairman of Committee on Compacts and Agreements between States.

*Commissioner Luther:*

Member of Property Acts Section.

Member of Social Welfare Acts Section.

*Commissioner Parkman:*

Member Legislative Committee.

Member Legislative Drafting Committee.

Member Civil Procedure Acts Section.

Member of Committee on Cooperation with Council of State Governments and American Legislative Association.

#### RECOMMENDATIONS BY COMMISSIONERS

The General Court for 1936 considered the following:

*Uniform Risk of Loss Act:*

This was passed by the Legislature June 12th, but vetoed by the Governor June 22nd. The veto was sustained by the Senate June 23d.

*Uniform Machine Gun Act:*

The Committee on Public Safety reported no legislation necessary.

*Uniform Extradition of Criminals Act:*

The Joint Judiciary Committee on May 26th reported no legislation necessary. The report was referred back to the Committee for further study.

*Uniform Trust Receipts Act:*

This was introduced independently but heartily supported by the Commissioners. It was passed and is now Chapter 264 of the Acts of 1936.



The Commissioners now recommend to the General Court for 1937 the enactment of the following:

*Uniform Risk of Loss Act:*

This is the Act which was passed by the Legislature in 1936, but vetoed by the Governor. It rectifies an anomalous situation in connection with the sales of real estate. At present if a building is destroyed or damaged between the making of a contract of sale and the passing of title or possession to the purchaser, the latter is generally compelled to take the damaged property and pay the full price. The Act provides that in such a case the purchaser may decline to go forward. It was drafted and sponsored by Professor Samuel Williston of the Harvard Law School, for many years a Commissioner for Massachusetts.

*Uniform Extradition of Criminals Act:*

This was also recommended by the Commissioners last year and was finally reported back to the Judicial Council for further study. The Act was revised and improved at this year's session of the Conference and was approved by the Inter-State Commission on Crime, of which Commissioner Kirk of the Department of Public Safety is a Massachusetts member. It is designed to make extradition between states more effective.

*Uniform Attendance of Witnesses from without a state in Criminal Proceedings Act:*

This Act is supplementary to the Uniform Extradition of Criminals Act and is designed to permit a State to secure the attendance at a criminal trial of witnesses who may be in another state. The present inability to do this is a recurrent handicap to the enforcement of criminal law. This Act also was revised at this year's session of the Conference and has also been approved by the Inter-State Commission on Crime.

#### APPROPRIATION

The Commissioners serve without compensation, but have an annual appropriation for traveling and other disbursements, including a contribution of not over \$100 for the maintenance of the Conference. For many years this appropriation was \$750. For 1933, 1934 and 1935 it was \$600. In its last report the Commissioners recommended an increase to \$1,000, but the appropriation was actually reduced to \$500.

The recommendation of last year was based upon two considerations. The 1936 Conference was held at Boston and the Massachusetts Commissioners felt that this would entail considerable added expense for the inevitable entertainment of visiting Commissioners. They also felt that the dignity of the Commonwealth required an increase in the annual contribution of \$100 to the expenses of the Conference and recommended \$250. Several states allot as much as \$750 a year for this purpose, and in comparison to its size and importance the contribution of Massachusetts is niggardly.

The next Conference will be held in Kansas City and will consequently entail heavy traveling expenses for the Commissioners. For this reason a return to an annual appropriation of \$750 is recommended, of which \$250 should be allocated to the expenses of the Conference and the remainder to the expenses of the Commissioners.

Respectfully submitted,

JOSEPH F. O'CONNELL, *Chairman*  
WILLARD B. LUTHER,  
HENRY PARKMAN, JR.

ASS.  
OCS.  
OLL.

The Commonwealth of Massachusetts

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ANNUAL REPORT

OF THE

Commissioners on  
Uniform State Laws

FOR THE

Year ending November 30, 1937



# The Commonwealth of Massachusetts

## TWENTY-NINTH ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORM STATE LAWS

*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:*

In compliance with General Laws we have the honor to submit herewith our Annual Report for the year ending November 30, 1937.

The Commissioners throughout the year were Joseph F. O'Connell, Chairman and Secretary, Willard B. Luther and Henry Parkman, Jr. All are serving under appointments expiring October, 1939.

### HISTORICAL SURVEY

In 1890 New York passed an Act appointing "Commissioners for the promotion of uniformity of legislation in the United States". In the same year the American Bar Association recommended similar appointments in all States. Massachusetts first appointed commissioners in 1909 pursuant to Chapter 416 of the Acts of that year. There are now commissioners for every State, the District of Columbia, Alaska, Hawaii, Puerto Rico and the Phillipine Islands, fifty-three jurisdictions being so represented.

It is not the purpose of the conference to make all laws uniform in all States. This would be both impossible and undesirable. It is its purpose to make uniform the large number of laws which exist in every State dealing with matters which are common to all States, especially where these affect transactions in which citizens of more than one State may be involved. The Negotiable Instruments Act is perhaps the best example and has been adopted by every one of the fifty-three jurisdictions.

Prior to 1936 the Conference could consider only laws as to which uniformity in all States was deemed desirable. Experience has shown that there are now relatively few such laws. An amendment adopted in 1936 permits the consideration and approval of laws of general importance as to which States might desire model Acts, and also of laws which might become the basis of inter-state compacts between groups of States while not suitable for uniformity between all States.

### RESULTS

Since its formation the conference has approved sixty-three different Acts, a majority of which have been adopted by a considerable number of States. Massachusetts has adopted the following twenty-one Acts:

Acknowledgments (1910); Bills of Lading (1910); Child Labor (1913); Cold Storage (1912); Desertion and Non-support (1911); Federal Tax Lien Registration (1927); Foreign Executed Wills (1911); Foreign Probated Wills (1911); Fraudulent Conveyances (1924); Limited Partnership (1923); Marriage and Marriage License (1911); Marriage Evasion (1913); Narcotics (1935); Negotiable Instruments (1898); Partnership (1922); Sales (1908); Stock Transfer (1910); Trust Receipts (1936); Warehouse Receipts (1907); Extradition of Criminals Act (1937); Attendance of Witnesses From Without a State in Criminal Proceedings Act (1937).

### CONFERENCE OF 1937

The forty-seventh Annual Conference was held at Kansas City, Missouri, September 20-25, 1937. Seventy-three Commissioners from thirty-seven States and the District of Columbia and Puerto Rico attended. Massachusetts was represented by Commissioners O'Connell and Luther. The Conference elected the following officers:

Alexander Armstrong of Maryland, President  
Harry P. Lawther of Texas, Vice-President  
Murray M. Shoemaker of Ohio, Treasurer  
William C. Ramsey of Nebraska, Secretary

The Conference finally approved and recommended the following Uniform Acts:

Criminal Statistics Act  
Expert Testimony Act  
Trust Act  
Trust Accounting Act (Amendment)

A number of other Acts were considered and referred to the next Conference.

During the past year Commissioner O'Connell has been Chairman of the Committee on Compacts and Agreements between States; Commissioner Luther a member of the Property Acts Section and Social Welfare Acts Section; and Commissioner Parkman a member of the Civil Procedure Section, and of the Legislative, Legislative Drafting and Co-operation Committees. For the coming year the assignments are:

*Commissioner O'Connell:*

Chairman of Committee on Compacts and Agreements between States.

*Commissioner Luther:*

Member Committee on Scope and Program.  
Member Property Acts Section.

*Commissioner Parkman:*

Member Legislative Committee.  
Member Legislative Drafting Committee.  
Member Civil Procedure Acts Section.

#### RECOMMENDATIONS OF COMMISSIONERS

In 1937 upon recommendation of the Commissioners the General Court considered the following Acts with the results indicated:

*Uniform Risk of Loss Act:*

This was passed by the General Court in 1936 but vetoed by the Governor. In 1937 it did not emerge from Committee.

*Uniform Extradition of Criminals Act:*

This was recommended by the Commissioners in 1936. The Joint Judiciary Committee reported no legislation necessary, but the report was referred back to the Committee for further study. The Act was passed by the General Court in 1937 under the title "Uniform Criminal Interstate Rendition Law". It was approved May 12, 1937 as Chapter 304 of the Acts of 1937 and became G. L. Chapter 276, Sections 11-20R.

*Uniform Attendance of Witnesses from Without a State in Criminal Proceedings Act:*

This Act which is supplementary to the Uniform Extradition of Criminals Act was passed April 16, 1937 as Chapter 210 of the Acts of 1937 and is now G. L. Chapter 233, Sections 13A-13D.

The Commissioners now recommend to the General Court for 1938 the enactment of the following:

*Uniform Criminal Statistics Act:*

This Act was approved by the Conference in 1937, although work upon it began in 1931 at the instigation of President Hoover's Crime Commission. It is designed to coordinate and make more readily available statistics in the several fields of crime such as: (1) Statistics on the occurrence and identification of criminals; (2) Statistics on the prosecution and conviction of criminals; and (3) Statistics on the operation of penal institutions. Such an Act would both assist in the internal administration of the Commonwealth and be a valuable aid to other states and the federal government.

*Uniform Trust Act:*

This also was approved by the Conference in 1937 after a study covering several years. To a certain extent it is declaratory of the existing law, but contains several important provisions designed to clarify phases of the law of trusts that have



previously been debatable. Included in the foregoing are sections: (1) Permitting corporate trustees to deposit in their own commercial departments trust cash awaiting investment or distribution, provided it be adequately secured, this being in line with the regulations now covering national banks; (2) Allowing a majority of trustees, where there are three or more, to act for the trust; and (3) Permitting the Court in proper cases to relieve a trustee from personal liability where the administration of the trust as a whole has been honest and beneficial.

#### APPROPRIATION

The Commissioners serve without compensation, but have an annual appropriation for traveling and other disbursements, including a contribution set by Statute at not over \$100 for the maintenance of the Conference. For most years this appropriation has been \$750, and the Commissioners recommend \$750 for 1938. They also recommend, and have proposed an amendment to the Statute to cover, an increase in the contribution to the Conference from \$100 to \$200. Several States allot as much as \$750 for this purpose and the Commissioners feel that the dignity of Massachusetts demands some increase by it.

Respectfully submitted,

JOSEPH F. O'CONNELL, *Chairman*  
WILLARD B. LUTHER,  
HENRY PARKMAN, JR.

The Commonwealth of Massachusetts

ANNUAL REPORT

OF THE

Commissioners on  
Uniform State Laws

FOR THE

YEAR ENDING NOVEMBER 30, 1938





# The Commonwealth of Massachusetts

## THIRTIETH ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORM STATE LAWS

*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:*

In compliance with General Laws we have the honor to submit herewith our Annual Report for the year ending November 30, 1938.

The Commissioners throughout the year were Joseph F. O'Connell, Chairman and Secretary, Willard B. Luther and Henry Parkman, Jr. All are serving under appointments expiring October, 1939.

### HISTORICAL SURVEY

In 1890 New York passed an Act appointing "Commissioners for the promotion of uniformity of legislation in the United States". In the same year the American Bar Association recommended similar appointments in all States. Massachusetts first appointed commissioners in 1909 pursuant to Chapter 416 of the Acts of that year. There are now commissioners for every State, the District of Columbia, Alaska, Hawaii, Puerto Rico and the Philippine Islands.

It is not the purpose of the conference to make all laws uniform in all States. This would be both impossible and undesirable. It is its purpose to make uniform the large number of laws which exist in every State dealing with matters which are common to all States, especially where these affect transactions in which citizens of more than one State may be involved. The Negotiable Instruments Act is perhaps the best example and has been adopted by every one of the fifty-three jurisdictions. It also suggests model acts on laws of general, though not universal, importance.

### RESULTS

Since its formation the conference has approved seventy-five different Acts, many of which have been adopted by a considerable number of States. Massachusetts has adopted the following twenty-one acts:

Acknowledgments (1910); Bills of Lading (1910); Child Labor (1913); Cold Storage (1912); Desertion and Non-Support (1911); Federal Tax Lien Registration (1927); Foreign Executed Wills (1911); Foreign Probated Wills (1911); Fraudulent Conveyances (1924); Limited Partnership (1923); Marriage and Marriage License (1911); Marriage Evasion (1913); Narcotics (1935); Negotiable Instruments (1898); Partnership (1922); Sales (1908); Stock Transfer (1910); Trust Receipts (1936); Warehouse Receipts (1907); Extradition of Criminals Act (1937); Attendance of Witnesses from Without a State in Criminal Proceedings Act (1937).

### CONFERENCE OF 1938

The forty-eighth Annual Conference was held at Cleveland, Ohio, July 18-23, 1938, with the largest attendance in its history. Massachusetts was represented by all its Commissioners. The Conference elected the following officers:

Alexander Armstrong of Maryland, President  
E. E. Brossard of Wisconsin, Vice President  
Murray M. Shoemaker of Ohio, Treasurer  
Barton H. Kuhns of Nebraska, Secretary

The Conference finally approved and recommended the following Uniform Acts:

Absentee's Property	Common Trust Fund
Air Flight	Estates
Air Jurisdiction	Property
Aviation Liability	Unauthorized Insurers

A number of other Acts were considered and referred to the next Conference.

#### ASSIGNMENTS OF COMMISSIONERS

During the past year Commissioner O'Connell has been Chairman of the Committee on Compacts and Agreements between States; Commissioner Luther a member of the Property Acts Section and Committee on Scope and Program; and Commissioner Parkman a member of the Civil Procedure Section, and of the Legislative and Legislative Drafting Committees. For the coming year the assignments are:

*Commissioner O'Connell:* Chairman of Committee on Compacts and Agreements between States.

*Commissioner Luther:* Committee on Scope and Program. Property Acts Section.

*Commissioner Parkman:* Legislative Committee. Legislative Drafting Committee. Civil Procedure Acts Section.

#### RECOMMENDATIONS OF COMMISSIONERS

In 1938 upon recommendation of the Commissioners the General Court considered:

*Uniform Criminal Statistics Act:* This was referred to the next annual session. In view of this action the Commissioners do not again recommend it.

*Uniform Trust Act:* This was approved by the Conference in 1937 after study covering several years. It was referred to the Judicial Council and the Commissioners again recommend it to the General Court for 1939. To a considerable extent it is declaratory of our existing law but contains certain additional features including: (1) Permitting corporate trustees to deposit in their own commercial departments trust cash awaiting investment or distribution, provided it be adequately secured, this being in line with regulations now applying to national banks; (2) Allowing a majority of trustees to act; and (3) Permitting the Court in proper cases to relieve a trustee from personal responsibility for individual losses where the administration of the trust as a whole has been honest and beneficial.

The Commissioners also recommend:

*Uniform Common Trust Fund Act:* This was approved by the Conference in 1938 and supplements the Trust Act just referred to. Under existing Federal regulations national banks are permitted to invest funds of separate trusts of which they are trustee in a common trust fund, this being a convenient form for the administration of small trusts. The proposed act gives to trust companies the same privilege that national banks now have. A special act (Chapter 248 of Acts of 1938) gave similar powers to the Massachusetts Hospital Life Insurance Company and thus approves the general principle underlying this Act.

*Uniform Risk of Loss Act:* This was recommended to the General Court of 1936, was passed by it but was vetoed by the Governor. It is again recommended because it is believed to rectify an important omission in the law regarding sales of real estate, which as to personal prop-

erty was cured years ago. At present, if a building burns or is otherwise destroyed or damaged between the time when a contract for its sale has been entered into and the time when the purchaser would take title or possession the purchaser is compelled to take the damaged property and pay the full price. The proposed act would cure this injustice. It was drafted and sponsored by Samuel Williston, Emeritus Professor of the Harvard Law School, for many years a Commissioner of Massachusetts and the world authority on the law of sales.

Although with the adoption of biennial sessions, it will probably be two years before the Commissioners can make further recommendations they have limited their present suggestions to the foregoing three acts, because they hope during the session to add to these recommendations the three aviation acts already referred to: Aviation Liability, Air Flight and Air Jurisdiction. These are timely and highly important statutes, but have not yet been released by the Conference in their finally approved form.

#### APPROPRIATION

The Commissioners serve without compensation, but have an annual appropriation for traveling and other disbursements, including a contribute set by Statute at not over \$200 for the maintenance of the Conference. For 1938 the appropriation was \$750. For 1939 the Commissioners recommend \$1,200, as the conference will be in San Francisco entailing heavy traveling expenses.

Respectfully submitted,

JOSEPH F. O'CONNELL, *Chairman*

WILLARD B. LUTHER

HENRY PARKMAN, JR.

The Commonwealth of Massachusetts

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ANNUAL REPORT

OF THE

Commissioners on  
Uniform State Laws

FOR THE

YEAR ENDING NOVEMBER 30, 1939





# The Commonwealth of Massachusetts

## THIRTY-FIRST ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORM STATE LAWS

*To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:*

In compliance with General Laws we have the honor to submit herewith our Annual Report for the year ending November 30, 1939.

The Commissioners throughout the year were Joseph F. O'Connell, Chairman and Secretary, Willard B. Luther and Henry Parkman, Jr. Their appointments expired in October 1939 and all were re-appointed for a further five-year term.

In view of the fact that there will be no session of the General Court in 1940 the usual historical survey and certain other matters will be omitted.

### CONFERENCE OF 1939

The forty-ninth Annual Conference was held at San Francisco, California, July 3-8, 1939. None of the Massachusetts Commissioners attended because for reasons of economy the necessary expense for travel without the Commonwealth was not sanctioned. The Conference was largely attended by Commissioners from other States and finally approved and recommended the following Uniform Acts:

Acknowledgement Act.

Absence as Evidence of Death and Absentees' Property Act.

Contribution among Tort-feasors Act.

Secured Creditors' Dividend in Liquidation Proceedings Act.

Insurers' Liquidation Act.

Statute of Limitations Act.

The Conference elected these officers:

William A. Schnader of Pennsylvania, President

Dix H. Rowland of Washington, Vice-President

Murray M. Shoemaker of Ohio, Treasurer

Barton H. Kuhns of Nebraska, Secretary

### ASSIGNMENTS OF COMMISSIONERS

The 1940 assignments are as follows:

*Commissioner O'Connell:*

Committee on Compacts and Agreements between States.

Uniform Public Law Acts Section.

*Commissioner Luther:*

Committee on Scope and Program.

Committee on Public Information.

Chairman of Special Committee on Uniform Act on Execution of Wills.

Property Acts Section.

*Commissioner Parkman:*

Legislative Committee.

Committee on Legislative Drafting.

## RECOMMENDATIONS OF COMMISSIONERS

The Commissioners make no present recommendations because the General Court will not be sitting in 1940.

## APPROPRIATION

The Commissioners serve without compensation, but have an annual appropriation for traveling and other disbursements, including a contribution set by Statute of not over \$200 for the maintenance of the Conference. For 1938 the appropriation was \$750. For 1939 the Commissioners recommended \$1200, in view of the holding of the Annual Conference in San Francisco. Only \$200 was appropriated and, as previously stated, none of the Commissioners were able to attend the Conference. As the next Conference will be held in Philadelphia, the Commissioners recommend the standard appropriation of \$750.

Respectfully submitted,

JOSEPH F. O'CONNELL, *Chairman*

WILLARD B. LUTHER

HENRY PARKMAN, JR.





The Commonwealth of Massachusetts

ANNUAL REPORT

OF THE

Commissioners on  
Uniform State Laws

FOR THE

YEAR ENDING NOVEMBER 30, 1946



## The Commonwealth of Massachusetts

### THIRTY-EIGHTH ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORM STATE LAWS

*To His Excellency, The Governor, and the Honorable Council of the Commonwealth of Massachusetts:*

In compliance with General Laws we have the honor to submit herewith our Annual Report for the year ending November 30, 1946.

Throughout the year the Commissioners have been Willard B. Luther, Chairman, John A. Daly, and Jean Sisson, all of whom attended the Annual Conference.

The National Conference of Commissioners held its fifty-sixth Annual Meeting in Philadelphia, October 21-26, 1946. Some ninety-eight Commissioners from thirty-nine states and the District of Columbia and Puerto Rico attended.

The Conference elected the following officers:

William E. Stanley, Kansas, President  
Willard B. Luther, Massachusetts, Vice President  
Barton H. Kuhns, Nebraska, Secretary  
Boyd M. Benson, South Dakota, Treasurer  
Albert J. Harno, Illinois, Chairman

Executive Committee

Mr. Luther is ex-officio, also a member of the Executive Committee.

In the course of his greeting to the members of the Conference Judge Roberts, now retired from the United States Supreme Court, dwelt upon the importance and need for Uniform State Legislation and the splendid contribution being made by the Conference to that end. Lawyers and people generally are becoming more conscious of the need for such uniformity through state rather than federal action. Several proposals were presented to the Conference for consideration and several acts previously considered were adopted. Most of the time was consumed in considering the revised drafts of the Negotiable Instruments Act and the new Investment Securities Act, both of which are included in the important and comprehensive Commercial Code.

The Conference finally approved the following acts:

Uniform Act Relating to the Reverter of Realty  
Uniform Criminal Statistics Act  
Model State Administrative Procedure Act

The Conference also endorsed the Motor Vehicle Code which consists of five Acts revised by the National Conference on Street and Highway Safety. It also approved an amendment to the Uniform Aeronautics Act which was adopted some years ago but later withdrawn from the list of active Acts.

#### THE COMMERCIAL CODE

The Uniform Acts most generally passed by the states have been those connected with commercial transactions. Legislation seeking uniformity on business matters naturally becomes of major importance to the states both as to business within and without the state. This resulted in the wide-spread adoption of a group of acts which included the Uniform Negotiable Instruments Act, Sales Act, Warehouse Receipts Act, Trust Receipts Act, Bills of Lading Act, and Stock Transfer Act. With the exception of the Trust Receipts Act all of these have been in operation for over thirty-five years. Inevitably changes have suggested themselves as business practices have changed.

Six years ago the National Conference decided that the time had come to revise and modernize these acts. It was also felt that they were so closely

interconnected that they should be correlated into a single Commercial Code. Such a code would be of tremendous assistance in the development of world trade because practically all countries, except England and its Colonies, base their jurisprudence upon codes and find it difficult to understand our common law and doubly difficult to understand the variations of that law between forty-eight different states.

With this in mind the National Conference undertook the task outlined and later secured the active assistance of the American Law Institute, which had just finished its twenty-year task of restating the common law. The first section of such a code, the Sales Act, has already been completed and two other sections (Negotiable Instruments and Investment Paper) are well under way. It is hoped that the entire code may be completed by 1949 and that it will then be adopted by the Federal Government as well as by the states.

#### UNIFORM ACTS ADOPTED BY MASSACHUSETTS

This State has already adopted twenty-two Uniform State Acts approved over a period of time by the Conference of Commissioners on Uniform State Laws. It is believed that all of these have been beneficial to our jurisprudence.

#### RECOMMENDATIONS OF COMMISSIONERS

The acts approved by the Conference at this meeting do not appear to your Commissioners to be required for our Commonwealth or are already otherwise included in our body of law and consequently will not be recommended for adoption. We do recommend passage of the Uniform Joint Tortfeasors Act which was passed by the House and defeated in the Senate during the last session of the General Court. This act fills a gap in our laws relating to injuries to persons and property and we shall therefore recommend it to the next legislature. It is hoped that by 1949 the Commissioners will be in a position to present and recommend for passage the Commercial Code.

#### APPROPRIATION

The Commissioners serve without compensation. For the current year they received an appropriation of \$750, this being the amount requested and sufficient for their annual expenses. Of this \$200 was paid for the support of the Annual Conference, this being the maximum amount permitted by the existing statute (General Laws, Ch. 6, Sec. 28). This amount is totally inadequate for the dignity of Massachusetts and relatively much less than contributed for the same purpose by other states of comparable size. It is also much less than the Executive Committee of the Conference has allocated to Massachusetts as a fair contribution from it. The Commissioners will present for the consideration of the next session of the General Court an amendment to the statute raising the limit for this contribution to \$400. In the hope that such an amendment will be passed and in the firm belief that it should be it requests an appropriation for the fiscal year commencing July 1, 1947 of \$1,000.

Respectfully submitted,

/s/ WILLARD B. LUTHER  
WILLARD B. LUTHER

/s/ JEAN SISSON  
JEAN SISSON

/s/ JOHN A. DALY  
JOHN A. DALY

November 30, 1946



**The Commonwealth of Massachusetts**

**ANNUAL REPORT**

**OF THE**

**Commissioners on  
Uniform State Laws**

**FOR THE**

**YEAR ENDING NOVEMBER 30, 1947**





# The Commonwealth of Massachusetts

## THIRTY-NINTH ANNUAL REPORT OF THE COMMISSIONERS ON UNIFORM STATE LAWS

*To His Excellency, The Governor, and the Honorable Council of the Commonwealth of Massachusetts:*

In compliance with General Laws we have the honor to submit herewith our Annual Report for the year ending November 30, 1947.

Throughout the year the Commissioners have been Willard B. Luther, Chairman, John A. Daly and Jean Sisson.

The National Conference of Commissioners held its fifty-seventh annual meeting in Cleveland, Ohio, September 15 to 20, 1947. Some ninety-seven Commissioners and about four associate members from forty states and the District of Columbia and Puerto Rico attended. The conference elected the following officers:

Albert J. Harno, Illinois, President

Sherman R. Moulton, Vermont, Vice President

Barton H. Kuhns, Nebraska, Secretary

Boyd M. Benson, South Dakota, Treasurer

Howard L. Barkdull, Ohio, Chairman

Executive Committee

At the convention the following matters were presented for consideration and action:

1. Further progress was made towards completing the revised "Commercial Code," reference to which was made in your Commissioners' report last year. As a matter of fact, about one half of the time of the convention was devoted in analyzing and clarifying three important divisions of the Commercial Code, namely, the Investment Securities Act, Letters of Credit and Negotiable Instruments. It is hoped that the entire Commercial Code will be completed by 1949 or 1950.

2. We quote from the report of the Secretary of the Conference of Commissioners on Uniform State Laws Relative to the presentation and action taken on the Uniform Divorce Recognition Act. He states as follows:

"The Uniform Divorce Recognition Act was approved by the Conference at Cleveland with the provision that at such time as the Executive Committee might determine was appropriate, the Act would be submitted to the American Bar Association for approval.

"The action of the conference was prompted by the thought that we would not wish to recommend an Act to the American Bar Association, or urge its promulgation among the states, until there is an opportunity to study the opinions of the Supreme Court in additional cases which, at the time of the annual meeting, were expected to be for early argument in the Supreme Court."

The cases referred to have now been argued, and when the opinion or opinions are handed down, the draft which the Conference approved at Cleveland will be studied by the Executive Committee in the light of the opinions thereupon. In view of these developments we shall in our next report advise the final action taken on this Act.

3. Several other acts were presented for consideration, but it appears to us that none of them require attention at this time.

## UNIFORM ACTS ADOPTED BY MASSACHUSETTS

This State has already adopted twenty-two Uniform State Acts approved over a period of time by the Conference of Commissioners on Uniform State Laws. It is believed that all of these have been beneficial to our jurisprudence.

### RECOMMENDATIONS OF COMMISSIONERS

At the present time we recommend, after further consideration, passage of the Uniform Joint Tortfeasors Act which was defeated in the Senate during the last session of the General Court. As stated in an earlier report of the Commissioners "this Act fills a gap in our laws relating to injuries to persons and property." We shall, therefore, recommend it to the next legislature. We still are hopeful that by 1949 or 1950 the Commissioners will be in a position to present and recommend for passage the Commercial Code.

### APPROPRIATION

The Commissioners serve without compensation. In view of the fact that the Conference of Commissioners for the year 1948 will be held in Seattle, Washington, the budget of the Commission for the current year is somewhat larger than usual. It is estimated that the requirements for the Commission for the year July 1, 1948 to June 30, 1949 will amount to \$1,375 made up as follows:

1	Contribution to National Conference as authorized by Statute	\$400.00
2.	Publishing Annual Report	25.00
3.	Stationery, telephones and telegrams	50.00
4.	Expenses of Commissioners to Annual Conference in Seattle, Washington, September 1948 at \$300 each	900.00
		<hr/>
		\$1,375.00

The Commissioners respectfully request an appropriation for the fiscal year commencing July 1, 1948 in the amount of \$1,375.

Respectfully submitted,

/s/ WILLARD B. LUTHER  
WILLARD B. LUTHER  
/s/ JEAN SISSON  
JEAN SISSON  
/s/ JOHN A. DALY  
JOHN A. DALY

December 15, 1947

